

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

November 5, 2009

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, November 5, 2009, at 1:30 P.M., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: G. Nelson Van Fleet, Chair; Debra Miller Stevens, Vice Chair; Darrell Downing; Shawn Farney; David Foster; Bud Hentzen; Hoyt Hillman; Bill Johnson; Joe Johnson; Ronald Marnell and M.S. Mitchell. David Dennis; John W. McKay, Jr., and Don Sherman were absent. Staff members present were: John Schlegel, Director; Dale Miller, Current Plans Manager; Donna Goltry, Principal Planner; Bill Longnecker, Senior Planner; Jess McNeely, Senior Planner; Neil Strahl, Senior Planner; Derrick Slocum, Associate Planner; Joe Lang, Chief Deputy City Attorney; Bob Parnacott, Assistant County Counselor and Maryann Crockett, Recording Secretary.

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1. Approval of the October 22, 2009 MAPC meeting minutes:

MOTION: To approve the October 22, 2009 minutes as amended.

HILLMAN moved, **MILLER STEVENS** seconded the motion, and it carried (11-0).

CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS

- 2-1. **SUB 2009-67: One-Step Final Plat -- PANEK-DURHAM ADDITION**, located south of 15th Street, west of 311th Street West.

NOTE: This site is located in the County in an area designated as “rural” by the Wichita-Sedgwick County Comprehensive Plan. It is located in the Garden Plain Area of Influence.

STAFF COMMENTS:

- A. Since neither sanitary sewer nor municipal water is available to serve this property, the applicant shall contact County Code Enforcement to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage and water wells. A memorandum shall be obtained specifying approval.
- B. In conformance with the Urban Fringe Development Standards, for individual domestic wells that are proposed, a Safe Yield Analysis must be provided to Sedgwick County Code Enforcement to assure the availability of an adequate, safe supply of water that does not impair existing water rights. Easements shall be dedicated for potential future extension of public water and sewer.
- C. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- D. County Engineering has approved the drainage plan subject to revisions. The elevation datum needs to be NAVD 88. A drainage easement is needed across Lot 2. The area around the pond shall be platted as a floodway reserve.
- E. County Surveying advises that the legal description does not match the plat boundary.

- F. An offsite utility easement is needed.
- G. The 40-foot ingress/egress easement shall extend to Lot 1 and be established by separate instrument. Initial construction responsibilities and future maintenance of the driveway within the easement should also be addressed by the text of the instrument.
- H. In accordance with the Kansas Wetland Mapping Conventions under the Memorandum of Understanding between the United States Department of Agriculture - Natural Resources Conservation Service; United States Environmental Protection Agency; United States Army Corps of Engineer (USACE) and United States Fish and Wildlife Service, this site has been identified as one with potential wetland hydrology. The USACE should be contacted (316-322-8247) to have a wetland determination completed.
- I. Sedgwick County Fire Department advises that the plat should meet the requirements of the Sedgwick County Service Drive Code.
- J. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- K. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- L. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- M. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- N. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- O. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- P. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- Q. Perimeter closure computations shall be submitted with the final plat tracing.

- R. A compact disc (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send the information via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

B. JOHNSON moved, **J. JOHNSON** seconded the motion, and it carried (11-0).

- 2-2. SUB 2009-65: One-Step Final Plat -- ASR MR-55 WELL SITE ADDITION**, located on the north side of 117th Street North, west of 183rd Street West.

NOTE: This site is located in the County in an area designated as “rural” by the Wichita-Sedgwick County Comprehensive Plan. A Conditional Use (CON 2009-31) for a Major Utility has been requested.

STAFF COMMENTS:

- A. This plat will be subject to approval of an associated Conditional Use for a Major Utility and any related conditions.
- B. Since neither sanitary sewer nor municipal water is available to serve this property, the applicant shall contact County Code Enforcement to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage and water wells. A memorandum shall be obtained specifying approval.
- C. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- D. County Engineering has approved the drainage plan.
- E. The platting text shall note the dedication of the streets to and for the use of the public.
- F. County Engineering has approved the access controls. The plat denotes one opening along 117th St. North.
- G. The applicant shall guarantee the closure of any driveway openings located in areas of complete access control or that exceed the number of allowed openings. A Driveway Closure Certificate in lieu of a guarantee may be provided.
- H. Sedgwick County Fire Department advises that the plat should meet the requirements of the Sedgwick County Service Drive Code.
- I. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- J. The platting text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.

- K. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- L. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- M. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- N. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- O. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- P. Perimeter closure computations shall be submitted with the final plat tracing.
- Q. A compact disc (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send the information via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

B. JOHNSON moved, **J. JOHNSON** seconded the motion, and it carried (11-0).

- 2-3. SUB 2009-66: One-Step Final Plat -- ASR SURGE TANK SITE ADDITION**, located on the southeast corner of 109th Street North and 167th Street West.

NOTE: This site is located in the County in an area designated as "rural" by the Wichita-Sedgwick County Comprehensive Plan. A Conditional Use (CON 2009-30) for a Major Utility has been requested. The site is located in the Bentley Area of Influence.

STAFF COMMENTS:

- A. This plat will be subject to approval of an associated Conditional Use for a Major Utility and any related conditions.

- B. Since neither sanitary sewer nor municipal water is available to serve this property, the applicant shall contact County Code Enforcement to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage and water wells. A memorandum shall be obtained specifying approval.
- C. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- D. County Engineering has approved the applicant's drainage plan.
- E. In accordance with the access management standards, dedication of an additional 25-foot x 25-foot corner clip is needed at the intersection. The plat's text shall note the dedication of the streets to and for the use of the public.
- F. County Engineering has approved the access controls. The plat denotes one opening along 109th St. North.
- G. County Engineering recommends a 30-foot ingress/egress easement.
- H. The access easement shall be established by separate instrument. Initial construction responsibilities and future maintenance of the driveway within the easement should also be addressed by the text of the instrument.
- I. The signature line for the County Clerk needs to be revised to reference "Kelly B. Arnold."
- J. Both owner's of the property need to be signatories to the plat.
- K. Sedgwick County Fire Department advises that the plat should meet the requirements of the Sedgwick County Service Drive Code.
- L. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- M. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- N. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- O. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- P. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- Q. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can

be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.

- R. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- S. Perimeter closure computations shall be submitted with the final plat tracing.
- T. A compact disc (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send the information via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

B. JOHNSON moved, **J. JOHNSON** seconded the motion, and it carried (11-0).

- 2-4. SUB 2009-68: One-Step Final Plat -- DAN SCHMIDT ADDITION**, located on the west side of Hydraulic, north of 55th Street South.

NOTE: This is an unplatted site located within the City. The applicant has indicated a revised plat will include three lots.

STAFF COMMENTS:

- A. City of Wichita Water Utilities Department advises that the applicant needs to extend sanitary sewer (lateral main) to all lots being platted. All lots have access to water, but will have in lieu of assessment fees (transmission and distribution).
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- C. City Stormwater Engineering has approved the applicant's drainage plan. A cross-lot drainage agreement is needed.
- D. Traffic Engineering has approved the access controls. The plat proposes one opening along Hydraulic.
- E. Traffic Engineering has approved the 50-foot right-of-way along Hydraulic.
- F. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City

Engineers' office.

- G. On the final plat tracing, the MAPC signature block needs to reference "G. Nelson Van Fleet" as Chairman.
- H. The signature line for the County Clerk needs to be revised to reference "Kelly B. Arnold."
- I. The MAPC signature block needs to reference "John L. Schlegel, Secretary."
- J. For lots fronting on cul-de-sacs, the lot frontage is required to be 50% of the required lot width (50 feet). Lot 2 does not meet this 25-foot frontage requirement. A modification has been approved by the Subdivision Committee.
- K. The joint access easement shall be established by separate instrument. Initial construction responsibilities and future maintenance of the driveway within the easement should also be addressed by the text of the instrument.
- L. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- M. The platting text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- N. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- O. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- P. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- Q. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- R. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- S. Perimeter closure computations shall be submitted with the final plat tracing.

- T. A compact disc (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send the information via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

B. JOHNSON moved, **J. JOHNSON** seconded the motion, and it carried (11-0).

- 2-5. SUB 2009-69: One-Step Final Plat -- DAN SCHMIDT 2nd ADDITION**, located on the west side of Hydraulic, north of 55th Street South.

NOTE: This is an unplatted site located within the City. The site has been approved for a zone change (PUD 2009-04, PUD #32) from SF-5, Single-Family Residential to PUD Planned Unit Development.

STAFF COMMENTS:

- A. City of Wichita Water Utilities Department advises that lots 1 and 2 have access to water. The applicant needs to extend water (distribution main) to serve lots 3 to 6. Lots 2, 3 and 6 have access to sanitary sewer. The applicant needs to extend sewer (lateral main) to serve Lots 1, 4 and 5. (Lot 1 will have to reconnect to the new sewer main that is to be extended because of the existing sewer connection location and the new lot configuration).
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- C. City Stormwater Engineering has approved the applicant's drainage plan.
- D. In accordance with the approved PUD, the plat proposes two openings along Hydraulic.
- E. In accordance with the CUP approval, a cross-lot circulation agreement is needed to assure internal vehicular movement between the lots.
- F. Traffic Engineering has approved the 50-foot right-of-way along Hydraulic.
- G. County Surveying requests a location for the circulation access easement on Lot 1 and Lot 6.
- H. The signature line for the County Clerk needs to be revised to reference "Kelly B. Arnold."
- I. The MAPC signature block needs to reference "John L. Schlegel, Secretary."
- J. The lots shall be numbered consecutively.
- K. The perimeters of the proposed lots shall match the perimeters of the PUD parcel boundaries. A revised PUD will need to be approved.
- L. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on

recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.

- M. A PUD Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved PUD and its special conditions for development on this property.
- N. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- O. The platting text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- P. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- Q. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- R. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- S. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- T. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- U. Perimeter closure computations shall be submitted with the final plat tracing.
- V. A compact disc (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send the information via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

B. JOHNSON moved, **J. JOHNSON** seconded the motion, and it carried (11-0).

2-6. SUB 2009-70: One-Step Final Plat -- CLEMONS ACRES 2nd ADDITION, located on the west side of Meridian, north of 101st Street North.

NOTE: This site is located in the County in an area designated as “Small City 2030 Urban Growth Area” by the Wichita-Sedgwick County Comprehensive Plan. It is located in the Valley Center Area of Influence.

STAFF COMMENTS:

- A. Since neither sanitary sewer nor municipal water is available to serve this property, the applicant shall contact County Code Enforcement to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage and water wells. A memorandum shall be obtained specifying approval. The applicant shall contact County Code Enforcement concerning relocation of the existing onsite sewer system.
- B. In accordance with the Urban Fringe Development standards, since this plat is located within the Valley Center 2030 Urban Growth Area, the subdivider shall contact the City of Valley Center, to determine the financial feasibility of connecting the proposed subdivision to the city water system. If financially feasible, then the subdivision shall be connected to the city’s water system in accordance with that city’s standards.
- C. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- D. County Engineering has approved the applicant’s drainage plan. A drainage easement is needed across Lot 1. After dedication of the drainage easement, Lot 1 may not be a buildable site. Minimum pads are needed. The ingress/egress easement across Lots 1 and 2 should also be dedicated as a utility and drainage easement.
- E. County Surveying requests a benchmark on the final plat.
- F. A legend is needed.
- G. A building encroaches within the drainage and utility easement on the north line of Lot 3.
- H. The plat needs to include complete access control except for one opening at the north end of the plat. The entrance to 10425 Meridian needs to be relocated onto Lot 2 or an additional ingress/egress easement across Lot 1 needs to be established.
- I. The applicant shall guarantee the closure of any driveway openings located in areas of complete access control or that exceed the number of allowed openings. A Driveway Closure Certificate in lieu of a guarantee may be provided.
- J. Sedgwick County Fire Department advises that the plat should meet the requirements of the Sedgwick County Service Drive Code, in particular those for a multi-service drive.
- K. In accordance with the Subdivision Regulations, the 30-foot ingress and egress easement shall be platted as a reserve for private drive purposes. The plat’s text shall reference the platting of the reserve for private drive purposes. A covenant shall be submitted regarding the reserve, which sets forth ownership and maintenance responsibilities of the private drive.
- L. On the final plat tracing, the MAPC signature block needs to reference “G. Nelson Van Fleet” as Chairman.

- M. The signature line for the County Clerk needs to be revised to reference "Kelly B. Arnold."
- N. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- O. The platting text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- P. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- Q. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- R. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- S. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- T. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- U. Perimeter closure computations shall be submitted with the final plat tracing.
- V. Westar Energy has requested additional utility easements to be platted on this property.
- W. A compact disc (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send the information via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

B. JOHNSON moved, **J. JOHNSON** seconded the motion, and it carried (11-0).

3. PUBLIC HEARING – VACATION ITEMS

3-1. VAC2009-36: City request to vacate a portion of an easement dedicated by separate instrument, generally located northeast of the Kellogg Street - 167th Street West intersection.

OWNER/AGENT: USD 265, Goddard PEC, c/o Rob Hartman

LEGAL DESCRIPTION: Vacate a portion of a utility easement dedicated by separate instrument, Film 2904/Page 535, located on Lot 1, Block 1, Goddard School 2nd Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located north of Kellogg Street/US-54, on the east side 167th Street West (WCC #V)

REASON FOR REQUEST: Redesigned school campus layout

CURRENT ZONING: The subject property and abutting northern, eastern and southern properties are zoned SF-5 Single-family Residential (“SF-5”). Abutting northern and eastern properties are zoned SF-20 Single-family Residential (“SF-20”). The City of Goddard is located west of the site, across 167th Street West.

The applicant proposes to vacate a portion of a utility easement dedicated by separate instrument. This easement (as well as multiple others) was the result of VAC2009-00003. There are no utilities in the described easement. The Goddard School 2nd Addition was recorded with the Register of Deeds September 26, 2008.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Public Works/Water & Sewer/Storm Water, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate a portion of the described easement dedicated by separate instrument.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time August 20, 2009, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the described portion of the waterline easement dedicated by separate instrument and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.

Considerations (but not limited to) associated with the request to vacate the described portion of the utility easement dedicated by separate instrument have been identified, therefore, the vacation of the portion of the waterline easement dedicated by separate instrument described in the petition should be approved with conditions;

- (1) As needed provide Staff with any required additional easement(s) (with original signatures) dedicated by separate instrument, as needed and approved by any utilities. These easements will go with the

Vacation Order to City Council for final action and recording with the Register of Deeds. As needed, provide exhibits that show: (a) the location, size and configuration of the approved replacement easement(s), as dedicated by separate instrument. This will be provided prior to the vacation request going to City Council for final action and will be recorded with the Vacation Order and dedications, and (b) the location, size and configuration of the approved replacement easement(s), as dedicated by separate instrument, and their film and page number as recorded by the Register of Deeds. A copy will be placed in the Vacation case file and the Subdivision file for the Goddard School 2nd Addition.

- (2) Provide Planning staff with the legal description of the vacated portion of the easement on a Word document, via e-mail, to be used on the Vacation Petition and the Vacation Order.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant.
- (4) All improvements shall be according to City Standards and at the applicants' expense.
- (5) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) As needed provide Staff with any required additional easement(s) (with original signatures) dedicated by separate instrument, as needed and approved by any utilities. These easements will go with the Vacation Order to City Council for final action and recording with the Register of Deeds. As needed, provide exhibits that show: (a) the location, size and configuration of the approved replacement easement(s), as dedicated by separate instrument. This will be provided prior to the vacation request going to City Council for final action and will be recorded with the Vacation Order and dedications, and (b) the location, size and configuration of the approved replacement easement(s), as dedicated by separate instrument, and their film and page number as recorded by the Register of Deeds. A copy will be placed in the Vacation case file and the Subdivision file for the Goddard School 2nd Addition.
- (2) Provide Planning staff with the legal description of the vacated portion of the easement on a Word document, via e-mail, to be used on the Vacation Petition and the Vacation Order.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant.
- (4) All improvements shall be according to City Standards and at the applicants' expense.
- (5) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

DOWNING moved, **B. JOHNSON** seconded the motion, and it carried (11-0).

PUBLIC HEARINGS

4. **Case No.: CON2009-20** - Zane and Diane Miller Request County Conditional Use request for a rural home occupation (vehicle repair) for property less than 20 acres but greater than 5 acres and to waive certain development standards on property described as:

A tract beginning at a point 710 Feet West and 449 Feet North of the Southeast corner of the Northeast Quarter of Section 4, Township 26 South, Range 1 West of the 6th PM, Sedgwick County Kansas; thence North parallel with the East Line of said Northeast Quarter 91 Feet; thence West parallel with the South Line of said Northeast Quarter, 22 Feet; Thence North parallel with the East Line of said Northeast Quarter, 396 Feet; Thence West parallel with the South Line of said Northeast Quarter, 303.12 Feet more or less to a point 292 Feet East of the West line of the Southeast Quarter of said Northeast Quarter; thence South Parallel with the west Line of the southeast Quarter of said Northeast Quarter, 487 Feet; Thence East 324.65 Feet more or less to a point of beginning, subject to easements and restrictions of record if any and rights of way of record.

AND

Beginning at the Southwest corner of the Southeast Quarter of the Northeast Quarter of Section 4, Township 26 South, Range 1 West of the 6th PM, Sedgwick County Kansas; thence East 292 Feet; Thence North 270 Feet; Thence West 292 Feet to the West line of said Southeast Quarter of Northeast Quarter; Thence South 270 Feet to the place of beginning, together with all easements, tenements, hereditaments, privileges, and appurtenances in any way belonging or appertaining thereto, generally located on the north side of 73rd Street North one fourth mile west of Ridge Road (7451 N. 73rd Street West and 7520 W. 73rd Street North).

BACKGROUND: The applicants own approximately 12.89 acres (Tracts A-D plus the three tracts located immediately north of Tracts A and D, see the attached site plan) zoned RR Rural Residential (“RR”) that is divided between multiple unplatted tracts located north of West 73rd Street North, approximately 1,200 feet west of North 71st Street West (Ridge Road). The applicants are seeking Conditional Use approval to operate a “rural home occupation” that permits: “automobile painting, upholstering, rebuilding, renovation, reconditioning, body and fender works and overhaul conducted entirely within an enclosed structure with no outdoor storage of vehicles, parts or equipment.” For purposes of this report, the previously listed use and vehicle repair activities will be combined into the term “rural home occupation, vehicle repair.” The application size does not conform to the minimum rural home occupation standard minimum lot size of 20 acre. The application also does not meet a number of rural home occupation standards, as described below; however these standards can be waived by the Board of County Commissioners through the Conditional Use process. (See items a and h in paragraph seven below.)

The applicants propose to use 8.97 acres (Tracts A, B, C and D on the applicants’ site plan) of their 12.89-acre ownership for a “rural home occupation, vehicle repair” use. Two of the applicants’ unplatted tracts are addressed as 7520 West 73rd Street North (Tract B) and 7451 North 73rd Street West (Tract A); the other tracts, D and C, included in the application are interior tracts without street frontage and they do not currently have assigned addresses. The property at 7520 West 73rd Street North (Tract B) has 292 feet of frontage along West 73rd Street North, which is a publicly dedicated sand and gravel section line road, the

maintenance of which is the responsibility of Park Township. 7451 North 73rd Street West (Tract A) has approximately 478 feet of frontage. North 73rd Street West has the appearance of being a publicly dedicated sand and gravel road; however, as best staff can tell, the road has never been dedicated for public use and exists as an access easement.

The property at 7451 North 73rd Street West (Tract A) contains the applicants' current residence, located on the northern end of the tract, and a 190-foot x 40-foot accessory structure (7,600 square feet) located on the southern end of the tract. There is an existing gravel parking area located immediately east of the 190 x 40-foot accessory structure that opens to the access easement. The applicants initially propose (Phase 1, six months to two years) to use the 190 x 40-foot building for the repair activity, including outside parking of vehicles that are waiting for repair or are waiting to be picked up after the repairs are completed. The size of the home occupation requested (greater than 3,000 square feet), the location of the outside parking / storage (within 200 feet of the property line) and the outside parking / storage is not completely enclosed is not consistent with home occupation standards listed in items c and d in paragraph seven below. The applicant proposes to install a board fence to screen the parking area from view from the south. The applicants are also requesting a 32-square-foot sign to be placed on the building, and an up to 12-square-foot, lighted, off-site sign to be installed at the intersection of 73rd Street and 73rd Street. Both of these requested signs are not consistent with rural home occupation standards listed in g of paragraph seven below. Since the second sign requested is located on property not owned by the applicant and was not included in this Conditional Use application it cannot be considered for a waiver; however the Metropolitan Area Planning Commission may consider the 32 square-foot building sign request.

In Phase 2 of the request, the applicants propose to build a 40 x 60 (2,400 square feet) Wix style building to house the repair use at 7520 West 73rd Street North (Tract B), and move the "rural home occupation, vehicle repair" use from Tract A to Tract B. Tract B has what appears to be a railroad car that may be serving as a residence. There are two access points to Tract B from the section line road. The applicant also proposes to build a new 50 x 75 (3,750 square feet) residence on Tract B. The applicants' site plan depicts two drive approaches, one for the business and one for the residence. An outside parking /storage area, 75 feet by 100 feet (7,500 square feet) located west and north of the proposed "rural home occupation, vehicle repair" is to be fenced-in to provide screening for vehicles awaiting repair or to be picked up. For Tract B, the applicants propose two signs, one 32 square-feet in size to be placed on the building, and a second, lighted, sign no larger than 12 feet to be located on the southwest corner of 7520 West 73rd Street North (Tract B).

Once the "rural home occupation, vehicle repair" use has moved from 7451 North 73rd Street West (Tract A) to 7520 West 73rd Street North (Tract B), the applicants are requesting the Conditional Use on Tract A to be made null and void, leaving the Conditional Use to remain active for Tracts B, C and D (5.59 acres).

The subject area has two single-family residential tracts located to the south of Tract A and east of Tract B (7410 and 7428 West 73rd Street North) which have common property lines. The residences at 7410 and 7428 West 73rd Street are located 350 feet from the building the applicant proposes to initially use for the repair shop (Tract A), and approximately 360 and 210 feet respectively from the location of the proposed new shop at 7520 West 73rd Street North (Tract B). 7428 North 73rd Street North has a nearly solid hedgerow surrounding the site. There are some gaps along the western property line. 7410 West 73rd Street North has some pine trees planted along their northeastern property line, but they do not make a solid screen. Also to the east, the residence located at 7312 West 73rd Street North is approximately 480 feet east from the initial shop location (Tract A), but some 734 feet east from the Phase II shop (Tract B). Residences located further east at 7501 and 7465 North 71st Street West (Ridge Road) are located within 575 and 547 feet respectively of the proposed shop location on Tract A. (These last two residences located on North 71st Street West (Ridge Road) are located further than 600 feet from the proposed location of the new shop, Tract B.) The distances that do not meet the 600 foot separation (measured from the location of the home occupation to the off-site residence) requirement discussed in b of paragraph seven below will require a waiver by the County Commission.

Paragraph Seven: Article IV, Section E. 6. a-h of the *Wichita-Sedgwick County Unified Zoning Code* establishes minimum qualifying conditions for rural home occupations. Those conditions include: a) a minimum lot or tract size of 20 acres located on a federal or state highway or on a section line road; b) the rural home occupation may not be conducted within 600 feet of a dwelling that does not operate rural home occupation; c) maximum size of a rural home occupation is 3,000 square feet or less; d) outside storage is permitted provided the size of the storage area does not exceed 10,000 square feet, the outside storage is not to be located behind the front of the building containing the home occupation, is at least 200 feet away from all property lines or public street right-of-way, screening of outside storage is required if located within 600 feet of a property line or public right-of-way, screening is to be six to eight feet in height. Wood fencing, masonry units, stone or landscaping is allowed screening material. Landscaping may also be used but it must meet minimum height requirements and be effective the first growing season and all year round; e) no more than two persons other than persons occupying the dwelling unit as their residence shall be employed in any rural home occupation; f) the principal premise is not to be altered, the rural home occupation is not to create noise, vibration, electrical interference, smoke, particulate matter or odors in excess of what is ordinary and usual in the immediate neighborhood; no inventory except articles produced by member of the family residing in the residence shall be displayed or sold on the premise, the rural home occupation shall be conducted entirely within the principal structure or permitted accessory structure; g) one, on-site, non-illuminated free standing or attached to an accessory building sign up to 12 square feet in size located outside public right-of-way is permitted and h) rural home occupation not meeting these standards, but is located on no less than five acres with no more than four non-resident employees may be approved by Conditional Use.

County Code Enforcement staff has advised planning department staff that they have not been inside the building on Tract A proposed to be used initially to see if it meets current building code. The applicants are advised to contact Sedgwick County Code Enforcement at their earliest convenience to arrange for an inspection. It is possible the building may need improvements to meet Americans with Disabilities Act, electrical, fire or other code standards.

In summary, for the building located on Tract A proposed initially for the home occupation, the applicants are asking for waivers regarding: a) size of the application area, less than 20 acres but greater than five acres; b) size of the rural home occupation, greater than the maximum 3,000 square feet recommended; c) number, size, lighting and location of signs; only one sign up to 12 square feet, no off-site signs permitted; d) 600-foot separation from neighbor's residences, the building in which the home occupation is to be operated is located inside the 600-foot separation distance and e) parking of vehicles outside, the storage of vehicles within 200 feet of the property line and lack of fully enclosed storage. Access to Tract A is questionable given the fact that the roadway appears to be a private access easement. For the second location and proposed building on Tracts B, C and D, waivers are needed for: a) tract size less than 20 acres but greater than five; b) rural home occupation located within 600 feet of an off-site residence; c) outside parking / storage located within 200 feet of the property line and d) the number, size and lighting of signage.

CASE HISTORY: The property was zoned RR Rural Residential in 1985 with the adoption of county-wide zoning.

ADJACENT ZONING AND LAND USE:

NORTH: RR, Rural Residential, residence on 1.16 acres and 2.6 vacant acres that are owned by the applicant, north of that is another large-lot residence not owned by the applicant
SOUTH: RR, Rural Residential, large-lot residences; south of West 73rd Street North, cropland
EAST: RR, Rural Residential, multiple large-lot residences
WEST: RR, Rural Residential, cropland

PUBLIC SERVICES: On-site sewer and water services are used. West 73rd Street North has 30 feet of

half-street right-of-way, and is a sand and gravel Park Township maintained section line road. Increased traffic and insufficient maintenance of West 73rd Street North concerns were raised by area residents in an earlier sand and gravel mining application. As best as staff can determine, North 73rd Street West is not a publicly dedicated road, and may be a private access easement. The site is located in the Equus Beds Management District. The trip generation manual does not have data for a rural vehicle repair shop but using the data the manual has for a quick lube use, this use could generate an average of between one and five trips per day.

CONFORMANCE TO PLANS/POLICIES: The application area is located in a part of Sedgwick County that has been designated by the *Wichita and Small Cities 2030 Urban Growth Areas* map as being “rural.” This land use category encompasses land located outside the 2030 urban growth areas for Wichita and the small cities. This category is intended to accommodate agricultural uses and rural based uses that are no more offensive than those agricultural uses commonly found in Sedgwick County. “Commercial locational guideline” No. 5 discourages putting commercially generated traffic onto local residential roads. The Comprehensive Plan does not list specific policies for rural home occupations, however the Rural Home Occupation section of the *Wichita-Sedgwick County Unified Zoning Code*, Sec. IV-E. 7 enumerates specific uses that, due to the characteristics associated with the use, would not be appropriate in residential areas developed with smaller urban density lots, but because of the larger lots associated with rural land ownership may be appropriate in rural settings. Section IV-E. 6 defines characteristics and development standards designed to eliminate or mitigate foreseeable impacts caused by these uses. The standards for a rural home occupation have been enumerated above, and the areas where waivers of the recommended standards are being requested have been previously listed.

RECOMMENDATION: Because of the number of waivers needed (eight), to make the building proposed to be used initially on Tract A for the home occupation, and the lack of publicly dedicated access to Tract A, staff cannot recommend approval of a “rural home occupation, vehicle repair” in the proposed building located at 7451 North 73rd Street West (Tract A). Staff supports the use on Tracts B, C and D, Phase 2. Based upon information available prior to the public hearings, planning staff recommends that the use be APPROVED ONLY for tracts B, C and D, subject to the following conditions:

1. CON2009-00020 permits a rural home occupation: automobile painting, upholstering, rebuilding, renovation, reconditioning, body and fender works and overhaul conducted entirely within an enclosed structure with no outdoor storage of vehicles, parts or equipment” as specified in Sec IV-E. 6. a-h and 7. e of the *Wichita-Sedgwick County Unified Zoning Code* except as specifically modified by this Conditional Use approval for 7520 West 73rd Street North, Tracts B, C and D, as identified on the approved site plan.
2. The following waivers dealing with the use identified in 1 above are granted: the use may be operated on a site with less than 20 acres but greater than five acres; the use may be located closer to off-site residences than 600 feet; parking of vehicles waiting for repair or to be picked up outside the screened 75 x 100-foot outside parking / storage area identified on the site plan is permitted for up to 24 hours, otherwise all vehicles are to be parked or stored inside the 75 x 100-foot storage area shown on the site plan or inside the vehicle repair building. Outside parking / storage of vehicles in accordance with the previous sentence is permitted within 200 feet of the property line.
3. The site shall be developed in substantial conformance with the approved site plan. The site and the use shall be operated and maintained in conformance with all *Wichita-Sedgwick County Zoning Code*, building, environmental, health or other applicable codes, not specifically modified by this Conditional Use. The use may begin operation only when fully compliant with all applicable codes.
4. Signage shall be per the Rural Home Occupation standards listed in the *Wichita-Sedgwick County Rural Home Occupation standards*, Sec. IV-E. 6. g.
5. Prior to commencing the vehicle repair use, a restrictive covenant shall be filed with the Register of Deeds that ties Tracts B, C and D together and prevents them from being sold individually as long as the “Rural Home Occupation, vehicle repair” use is located on Tracts B, C or D.
6. All fluids associated with the “Rural Home Occupation, vehicle repair” use shall be collected, stored and disposed of in a manner consistent with local, state or federal regulations.

7. The applicant has two years from the date of final approval, either MAPC or County Commission, in which to establish the “Rural Home Occupation, vehicle repair” use. If more time is needed the applicant may file an Administrative Adjustment to extend the time frame up to an additional year.
8. If the Zoning Administrator finds that there is a violation of any of the conditions of this Conditional Use, the Zoning Administrator may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: All properties surrounding the application area are zoned RR Rural Residential and are used for large-lot residential or farmsteads or agricultural uses. The character of the larger area is clearly agricultural with large-lot residences scattered among crop land.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned RR Rural Residential that permits, by right: agriculture, single-family residences on two-acre or larger lots and a limited set of low intensity non-residential uses. The Unified Zoning Code also permits, by right, a limited set of Rural Home Occupation uses, including vehicle repair if the Rural Home Occupation can meet the development standards associated with Rural Home Occupations. In this instance, the part of the application dealing with Tract A will need at least eight different waivers to operate as a Rural Home Occupation. An application requiring that many waivers does not seem consistent with the spirit and intent of the code’s Rural Home Occupation standards, however, the portion of the application dealing with Tracts B, C and D is more consistent with the intent of the code. The property could be used as restricted since it has been used that way up to this point.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The requested use has the potential to create higher levels of noise, odor and traffic than is normally expected in a rural residential area; hence, the recommended development standards. Because of its proximity to existing off-site residences, approval of the use on Tract A will place these potentially detrimentally side effects closer to adjacent nearby residences than placing the use on Tracts B, C and D. Tracts B, C and D come much closer to meeting the recommended minimum development standards, and presumably mitigating anticipated impacts from the proposed use.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Denial of the applicant’s full proposal presumably could be an economic hardship; however, approval of only the second phase of the proposal would place the use in a location that meets more of the Rural Home Occupation standards and, therefore, presumably minimizes potential impacts upon those residences closest to Tract A.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The application area is located in a part of Sedgwick County that has been designated by the *Wichita and Small Cities 2030 Urban Growth Areas* map as being “rural.” This land use category encompasses land located outside the 2030 urban growth areas for Wichita and the small cities. This category is intended to accommodate agricultural uses and rural based uses that are no more offensive than those agricultural uses commonly found in Sedgwick County. “Commercial locational guideline” No. 5 discourages putting commercially generated traffic onto local residential roads. The Comprehensive Plan does not list specific policies for rural home occupations, however the Rural Home Occupation section of the *Wichita-Sedgwick County Unified Zoning Code*, Sec. IV-E. 7 enumerates specific uses that, due to the characteristics associated with the use, would not be appropriate in residential areas developed with smaller urban density lots, but because of the larger lots associated with rural land ownership may be appropriate in rural settings. While neither location meets all the standards for a Rural Home Occupation, the portion supposed by staff is more consistent with adopted plans and standards.

6. Impact of the proposed development on community facilities: Traffic will increase to some degree.

If the MAPC feels it is appropriate to approve the full request the following conditions of approval are recommended:

- A. CON2009-00020 permits a rural home occupation: automobile painting, upholstering, rebuilding, renovation, reconditioning, body and fender works and overhaul conducted entirely within an enclosed structure with no outdoor storage of vehicles, parts or equipment” as specified in Sec IV-E. 6. a-h and 7. e of the *Wichita-Sedgwick County Unified Zoning Code* except as specifically modified by this Conditional Use approval, and as identified on the approved site plan.
- B. Waivers are granted for all rural home occupation developments standards to allow the use to be developed as indicated on the approved site plan, except for the off-site signage.
- C. The site shall be developed in substantial conformance with the approved site plan. The site and the use shall be operated and maintained in conformance with all *Wichita-Sedgwick County Zoning Code*, building, environmental, health or other applicable codes, not specifically modified by this Conditional Use.
- D. An unlighted 32 square-foot building sign shall be permitted at the 7451 North 73rd Street West location. An unlighted, 32 square-foot building sign and an unlighted, up to 12-square-foot, pole sign shall be permitted at the southwest corner of 7520 West 73rd Street North location; otherwise signage shall be per the Rural Home Occupation standards listed in the Wichita-Sedgwick County Rural Home Occupation standards, Sec. IV-E. 6. g or the County Sign Code.
- E. Prior to commencing the vehicle repair use, a restrictive covenant shall be filed with the Register of Deeds that ties Tracts B, C and D together and prevents them from being sold individually as long as the “Rural Home Occupation, vehicle repair” use is located on Tracts B, C or D.
- F. All fluids associated with the “Rural Home Occupation, vehicle repair” use shall be collected, stored and disposed of in a manner consistent with local, state or federal regulations.
- G. The applicant has one year from the date of final approval, either MAPC or County Commission, in which to establish the “Rural Home Occupation, vehicle repair” use at either location or the Conditional Use shall be made null and void. If the applicant first establishes the use at the 7451 North 73rd Street West location, the applicant may operate at that site for up to two years from the date of final approval. By the end of the two years following final approval, the use is to be moved from the 7451 North 73rd Street West location to the to the 7520 West Street North location. If more time is needed the applicant may file an Administrative Adjustment to extend the time frame up to an additional year.
- H. If the Zoning Administrator finds that there is a violation of any of the conditions of this Conditional Use, the Zoning Administrator may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

DALE MILLER, Planning Staff presented the Staff Report.

MILLER mentioned that County Code Enforcement had requested that the term “prior to occupancy” be added to paragraph C on page #8. He said County Code Enforcement had expressed some concerns as to whether the existing building would meet current building codes.

MITCHELL asked for clarification of the jog in the easement line on the north/south road.

MILLER stated that according to the quarter section map, there was no dedicated road right-of-way with the exception of a small section in front of the applicant’s home.

FOSTER asked if there was adequate setback from the existing building to be used in Phase I from the property line to the south and asked how far it was.

MILLER said that was part of the reason staff was uncomfortable with an approval of the request, since it did not comply with the terms of home occupation. He said it was approximately 20 feet from the existing building to the adjacent property line. He said it does not have the required 600 foot separation.

FOSTER asked about dedicating the narrow strip as public access.

MILLER said he was not sure how wide the strip is and if that would meet minimum road standards.

DIRECTOR SCHELDEL added that the applicant doesn't control the entire portion of that strip so other neighbors would have to dedicate also.

J. JOHNSON asked if there was access to the property from the north.

MILLER said the road ends in a cul-de-sac to the north.

DIANE MILLER, 7451 NORTH 73rd STREET WEST, VALLEY CENTER said she owns the property in question jointly with her husband. She said the road has been in place for some time and that the U.S. Postal Service comes down it because that is how they receive mail, so someone does look at it as a road. She said they would like to operate at the existing building on a temporary basis; that they have hired an architect, but they did not want to start the project until they get approval. She said the 6 month - 2 year timeline was simply a guideline because they don't know the building process and added that with good weather they could possibly get into the new building by spring.

HILLMAN asked the applicant if they had resources available to fix the temporary building so it was up to building code while they are building the other structure closer to 73rd St. West. He also asked if they would be tearing down the current structure when the new building is done.

DIANE MILLER said they use the shed (current structure) for farm use. She said they have 13 acres and livestock and that the auto shop was in the front of the shed. She said they were going to use the building on a temporary basis to get their name out and get their customer following. She said as far as bringing the building up to code, when it was built it was up to code. She said if they have to sink a lot of money into that building, they wouldn't be building the new building.

HILLMAN said the request requires that the building meet code. He asked **MILLER** if they were in business now creating a following.

DIANE MILLER said no, her husband used to work in Valley Center at Shaw Wheel Company and as a result they have customers from Valley Center, Colwich, Andale and Maize.

DOWNING asked how the building was currently being used.

DIANE MILLER said the first 40-45 feet of it was concrete flooring which they use as a garage and the back end is where they keep their livestock (chickens, cows, and sheep) and machinery.

CHAIRMAN VAN FLEET asked the applicant if they understood that the staff recommendation was different from what they have requested and asked if they were in agreement with staff's recommendation.

DIANE MILLER said they are not in agreement with staff's recommendation; they would like to open the auto repair shop on a temporary basis. She said they previously talked to the neighbors and that the neighbors were fine with the site plan. She said the neighbors received the Staff Report which mentioned upholstering and other items and that it caused a lot of confusion on what they wanted to do and the time frame in which they wanted to do it.

MITCHELL asked how many acres were in the west parcel, since 20 acres was required for the home occupation.

DIANE MILLER said the west parcel consisted of just over 5 acres, and said she believed the requirement read 20 acres but not less than 5 acres.

MITCHELL clarified so if the building is not up to code, they will withdraw their application.

DIANE MILLER said they would probably withdraw phase 1. She said they would like to continue with phase 2, but they would like to have some kind of way to work three hours a night not full time because they both have full time jobs at the moment.

CHARLES PEASTER, 9453 NORTH 135th STREET WEST, SEDGWICK, KS commented that he was one of the people on a committee appointed by the Sedgwick County Commission to assist the Planning Department update of the Wichita-Sedgwick County Unified Zoning Code. He said the applicants, like most Sedgwick County residents don't understand the zoning code, what it is, how it is interpreted and how it is applied. He said the Miller's were told by Sedgwick County Code enforcement that they didn't have a conditional use permit for their property. He said he was assisting the Miller's to understand the zoning code. He said the Miller's came up with this plan with the assistance of Planning Staff and County Code Enforcement. He said the Staff Report mentions 6 months - 2 years with an extension of 1 year. He said the Miller's intent is to be in this building only long enough to re-establish the people that do business with Mr. Miller. He said it is kind of like a barber or a hairdresser, auto mechanics have a following. He concluded by requesting approval of the entire complex.

MITCHELL asked if there was any reason County Code Enforcement requested examination of the entire building to see if it meets code.

PEASTER said if meeting code is one of the conditions needed to operate the business, he does not think the Miller's have a problem with that, but he would have to ask them. He said there are no bathrooms in the building; however, they only intend to operate evenings and on Saturdays. He said the code mentions bodywork, fenders and upholstery, which they have no intent on doing. He said they are only interested in the operational parts of vehicles such as the motor, transmission, rear end and brakes. He mentioned that the code specifies general and limited under vehicle repair but that home occupation is not worded that way, which is why body, fender and upholstery is included with mechanical.

KEVIN QUENZER, 7410 WEST 73rd STREET NORTH said he lives at the corner of 73rd Street North and 73rd Street West. He said 73rd North has always been a private road since he has lived out there. He said this single-lane road was never intended to be used as a public road. He said it is a private easement back to those properties and that he doesn't want to change the footprint of a road that has been there for over 40 years. He said it is a quiet little neighborhood back there. He said he opposes the phase 1 aspect of this plan. He said people will have to drive right by his house to get to the Miller's chicken shed/barn and that concerns him. He said the issue came up earlier this past summer when the Miller's sent out business cards, started advertising and placed a sign on the road. He said they have never really shut down since summer and that there are 3-4 cars a week driving past his house and more on the weekends. He said the business is still running. He said his name is used in the Staff Report as saying that everything was okay for them to operate this and that is confusing because he had no idea that this building would be used to open a business. He said he thought they would be operating "under the radar" with 1 or 2 cars a day without meeting code restrictions or bringing the request before this committee for any required action. He said he does not oppose phase 2 of the plan, but he does not want phase 1 approved. He also mentioned that he does not believe the building will be up to code. He said phase 2 was alright with him because clients could turn straight off of 73rd Street West onto the Miller's property. He requested that the Commission look carefully at the request and oppose phase 1 of the proposal.

HILLMAN clarified that although Mr. Quenzer is not supportive of phase 1, he was okay if the Millers had 1 or 2 cars a night go to the property.

QUENZER said they already do that. He said if the Commission approves phase 1, the applicants want to put signage at the corner at his house, which they had already done before but they had to take it down. He said he was trying to be a good neighbor and work with them, as the plan is laid out in this phase 2, he totally opposes phase 1. He said in his talks with the Miller's he had no idea the current location was going to be opened up and advertised as a business. He said this location is still being operated as a business. He said it could be 15-20 cars a day, instead of 2-3.

MITCHELL asked if Mr. Quenzer if he knew who owns the easement directly east of his property.

QUENZER said as far as he knew, he did.

MILLER referred to the quarter section map and said the strip may have been intended to be an easement but the deed doesn't specify road easement.

MICHELLE GORGES said she was speaking for her mother Barbara Stewart who has lived at the end of this road for 45 years. She said her mother knows a little bit of the history of this easement or access of this road back to these residences and what this building has actually been used for. She said she has been in the building prior to the Miller's owning it and said that it is not up to code for a business. She said this is a single lane road, not maintained by the County but maintained by the residents that live on the road. She referred to pictures of the building provided with the Staff Report and mentioned the large amount of vehicles already parked outside by it. She said there was not a lot of room to turn around and store vehicles. She said she is concerned about increased traffic and people coming up and down the road, especially if it is only being maintained by the people that live there. She concluded by saying that this is her mother's only access to her residence and that the road does dead end at her mother's residence.

Responding to a question from **FOSTER**, **GORGES** clarified that there was no other access to her mother's residence, other than this road.

DOWNING asked about the electric pole and whose property that was located on. He commented that there must be some type of easement.

MILLER said based upon the aerials, it would be his guess that the poles are located dead on the property line of Mr. Quenzer.

MITCHELL clarified then there is not easement recorded for utility access.

MILLER said at least for access; that was all they were looking for.

BARBARA STEWART said she lives at the north end of the road. She said she believes the easement was put in her contract when she bought the house. She mentioned that there were only two houses out there at the time she moved in. She said the chicken house, which was the long building being discussed, was used for selling eggs when she moved out there in 1964.

MITCHELL asked about any arrangement for who maintains the road.

STEWART said the man she bought the house from did all that because it was his family's road. She said in the papers for her property it says 12 feet, which is not big enough for a road. She said the road lines up with the electric poles. She said the applicants are still running a garage late at night and on the weekends. She concluded by saying that the road becomes a "mud hole" during winter time.

DIANE MILLER said they have 7 children and numerous boyfriends and girlfriends and that they have been doing automotive work for their kids, family and next of kin. She said there are nine people driving cars in their family and that's why there are so many spare cars parked by the building. She said once they were notified that they did not have the right zoning, they shut down, pulled all of their signs, and every advertisement.

B. JOHNSON asked if it would make any difference if the applicants built an access road off of 73rd Street west to the building so their clients would not go down the private road.

MILLER commented that based on the testimony, it seems that would be more preferable, based on neighbors concerns.

FOSTER asked if phase 1 is disapproved, will that preclude the Miller's from assisting their relatives in terms of automobile repairs.

MILLER said he would let County Code Enforcement answer that, since they would address any complaints.

KELLY DIXON, COUNTY CODE ENFORCEMENT said the code addresses operation of businesses for car repair. He said as far as he knew, you can work on your own car or a family member's car without zoning.

B. JOHNSON asked what the requirements were for the existing building to be up to code for them to occupy it.

DIXON said the building code adopted by Sedgwick County for commercial businesses covers items such as electrical, plumbing, Americans with Disabilities Act, restrooms, and other items, etc.

DIRECTOR SCHLEGEL clarified that the motion included the conditions of approval listed in the Staff Report.

It was clarified that the Miller's could work on their own or family vehicles at the residence.

MOTION: To approve subject to staff recommendation.

DOWNING moved, **MITCHELL** seconded the motion, and it carried (11-0).

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5. **Case No.: ZON2009-32** - Walter Palmer (owner/applicant) KE Miller Engineering, PA, c/o Kirk Miller (agent) Request City zone change from B Multi-family to GC General Commercial on property described as:

Parcel 1: A tract beginning 269 feet West of the Northeast corner of the West half of the Northeast Quarter; thence South to the North line of McBride Addition; thence East to the street on the North to the North line; thence West to beginning, EXCEPT the East 184 feet of the North 210 feet and EXCEPT the North 410 feet of the East 150 feet, Section 5, Township 27 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas.

Parcel 2: Beginning 269 feet West of the Northeast corner of the West half of the Northeast Quarter; thence West to the center line of the creek; thence Southerly along said creek to a point South of the beginning; thence North 1164 feet to beginning, EXCEPT canal and EXCEPT The North 210 feet of the East 100 feet and EXCEPT McBride Addition and EXCEPT that part

platted as Meadow Creek Addition, Section 5, Township 27 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas.

Parcel 3: Beginning 269 feet West of the Northeast corner of the West half of the Northeast Quarter; thence West 100 feet; thence South 210 feet; thence East 100 feet; thence North to beginning Section 5, Township 29 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas, generally located south of 29th Street North and west of Fairview Avenue.

BACKGROUND: The applicant requests a zone change from B Multi-family Residential (“B”) to GC Limited Commercial (“GC”), with a Protective Overlay (“PO”) on the approximately 5.46-acre unplatted, undeveloped tract. The site is located midway between Arkansas and Broadway Avenues, both minor arterial roads. Access to the site is off of 29th Street North, a paved, four lane minor arterial. Fairview Avenue, a paved two lane residential street, abuts the east side of the site.

The surrounding area is characterized by a mix of uses including: office-warehouses, a full service restaurant and tavern (Cortez), a bingo parlor, a small grocery, auto repair, single-family residences (1940s -1990s) and undeveloped land. Most of the property located along the south side of 29th, between Broadway and Arkansas, is zoned GC or LI Limited Industrial (“LI”), with the exception of several B zoned properties (including the site, which is larger than all the other B zoned properties), a GI General Industrial (“GI”) zoned ½-block and SF-5 Single-family Residential (“SF-5”) zoned portions of LC Limited Commercial (“LC”) zoned single-family residences. These SF-5 portions of lots/single-family residences that are zoned mostly LC, abuts the drainage canal that runs parallel to the west side of the site. All the remaining SF-5 zoned property in the area is located on the north side of 29th. Immediately north of the site, across 29th, are: a GC zoned tavern/full service restaurant (CON2008-49), a self storage warehouse, a bingo parlor, a grocery and SF-5 zoned single-family residences. The abutting property to the south of the subject site is zoned TF-3 Two-family Residential (“TF-3”) and is a partially developed single-family residential subdivision; Meadow Creek, recorded February 15, 1995. Southern, adjacent B zoned properties are also developed as single-family residences. Properties adjacent to the west side of the site are the already noted single-family residences zoned LC with their east portions zoned SF-5, and one zoned GC. As already noted, there is a drainage canal separating these single-family residences from the subject site. An auto repair garage abuts the northwest side of the site. Properties abutting and adjacent to the east side of the site are zoned B and LI. The abutting B zoned properties are developed as three (3) single-family residences and an undeveloped residential sized tract. The adjacent LI zoned properties (across Fairview) are developed as several office - warehouses and a few nonconforming single-family residences.

To buffer the abutting and adjacent existing single-family residences from the commercial redevelopment on the site, the applicant has proposed a Protective Overlay (PO). The proposed PO limits signage, lighting, noise, building height and development standards. The proposed PO also prohibits certain uses that are less compatible with the abutting and adjacent single-family residential development.

CASE HISTORY: The subject property is an undeveloped, unplatted tract. The subject site and the abutting southern property were part of a zone change request, Z-3122, from B and E Light Industrial (“E”) to A Two-family Residential (“A”), which was approved by the MAPC and Council in 1994, subject to platting. At the time of the zoning case the subject site was vacant. The abutting south property (originally zoned E) was platted as the Meadow Creek Addition, (recorded February 15, 1995) while the subject site was never platted, thus the TF-3 zoning abutting the south side of the B zoned subject site. The area was annexed into the City between 1961 and 1970.

ADJACENT ZONING AND LAND USE:

NORTH:	GC, SF-5	Full service restaurant/tavern, bingo parlor, grocery, self storage warehouse, single-family residences
SOUTH:	TF-3, LI, B	Single family residences
EAST:	B, LI, GC,	Single-family residences, office-warehouses

WEST: SF-5, LC, GC Auto repair, drainage canal, single-family residences

PUBLIC SERVICES: The subject site has frontage/access to 29th Street North, a paved, curbed four-lane minor arterial. The site also has access to Fairview Avenue, a paved two residential street. The 2030 Transportation Plan indicates no change to the status of 29th. Traffic counts along 29th between Arkansas and Broadway Avenues (both minor arterials) range from 7,457-6,391 average trips per day. CIPs are scheduled for both the Arkansas – 29th and Broadway – 29th intersections, probably beyond 2012. All utilities are available to the subject site.

CONFORMANCE TO PLANS/POLICIES: The *2030 Wichita Functional Land Use Guide of the Comprehensive Plan* designates this area as appropriate for “Urban Residential” development. The Urban Residential category includes all housing types found in the municipality. Although the requested GC zoning does permit by-right all types of residential development, it also permits commercial development, which is not included in the Urban Residential category. The requested GC zoning would permit uses found in the “Regional Commercial” category that are characterized as “...major destination areas containing concentrations of commercial, office and personal services that have predominately regional market areas and high volumes of retail traffic...are located in close proximity to major arterials or freeways...ranges of uses include major retail malls, major automobile dealerships, and big box retail...” There is not any concentration of development in the area that is a regional draw or which draws high volumes of retail traffic. The site’s location is off of a minor arterial, midway between two other minor arterials. The existing GC zoned development in the area is more local commercial in character: full service restaurant and tavern, a bingo parlor, a small grocery and a self-storage mini warehouse. The area’s existing LI zoned development is mostly office-warehouse, of a moderate scale.

The location of the site and the development around it makes it more of a match for the “Local Commercial” category, although its size, 5.46-acres, would probably make it the largest GC or LI zoned site in the area. The uses found in the Local Commercial category include “...concentrations of commercial, office and personal services that do not have significant regional market draw...ranges of uses include medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants, personal services...may also include mini warehouse storage and small scale light manufacturing.” The existing uses in the area match the Local Commercial category. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The site has frontage on a minor arterial and the proposed PO addresses site design features and prohibits certain uses that are less compatible with the development of the area.

RECOMMENDATION: The site’s requested GC zoning does not conform to the *2030 Wichita Functional Land Use Guide of the Comprehensive Plan*. However, the GC zoning with the proposed PO would allow development of the site for uses not out of character for the area’s sites with 29th Street frontage; local retail, some manufacturing, office-warehouses and some single-family residential. The requested zoning would still allow all types of residential development, although the B zoned site being vacant for at least the last 15 years, seems to indicate it has less appeal for residential development. Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the platting within a year and the following provisions of a PO:

- A. No off-site or portable signs shall be permitted on the subject property. No building signs shall be permitted along the face of any building that is adjacent to any property that is zoned residential.
- B. Signs shall be in accordance with the City of Wichita sign code, with the exception that signs shall be monument-style.
- C. Light poles shall be of the same color and design and shall have cut-off fixtures which direct light away from any abutting or adjacent properties that are in a residential zoning district. Light poles shall be limited to a maximum height, including the base of the light pole, of 20 feet. Light

- poles shall not be located within any setbacks.
- D. Outdoor speakers and sound amplification systems shall not be permitted.
 - E. No buildings shall exceed one story in height with a maximum building height of 45 feet.
 - F. At the time the site is redeveloped the owner shall install and/or maintain 6-8-foot solid screening located parallel to the south, west and east property lines of the subject site, where it abuts and is adjacent to existing residential zoning.
 - G. At the time the site is redeveloped landscaping shall be installed that meets the Landscape Ordinance.
 - H. All driveways, parking, loading and vehicle circulation shall be paved with concrete, asphalt or asphaltic concrete.
 - I. A 35-foot setback shall run parallel to the east, west and south sides of the property.
 - J. The following uses shall not be permitted: group residence, limited and general, correctional placement residence, private and public recycling stations, recycling processing center, reverse vending machine, hotel – motel, kennels, recreational marine facility, night club, commercial parking, pawnshop, indoor and outdoor recreation, recreational vehicle campground, riding academy or stable, rodeo, sexually orientated business, tattooing or body piercing, tavern/drinking establishment, outdoor vehicle and equipment sales, limited and general asphalt or concrete plant, gas and/or fuel storage and sales, general manufacturing, mining or quarrying, rock crushing, solid waste incinerator, outdoor storage and vehicle storage yard.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is characterized by a mix of uses including: office-warehouses, a full service restaurant and tavern (Cortez), a bingo parlor, a small grocery, auto repair, single-family residences (1940s -1990s) and undeveloped land. Most of the property located along the south side of 29th, between Broadway and Arkansas, is zoned GC or LI Limited Industrial (“LI”), with the exception of several B zoned properties (including the site, which is larger than all the other B zoned properties), a GI General Industrial (“GI”) zoned ½-block and SF-5 Single-family Residential (“SF-5”) zoned portions of LC Limited Commercial (“LC”) zoned single-family residences. These SF-5 portions of lots/single-family residences that are zoned mostly LC, abut the drainage canal that runs parallel to the west side of the site. All the remaining SF-5 zoned property in the area is located on the north side of 29th. Immediately north of the site, across 29th, are: a GC zoned tavern/full service restaurant (CON2008-49), a self storage warehouse, a bingo parlor, a grocery and SF-5 zoned single-family residences. The abutting property to the south of the subject site is zoned TF-3 Two-family Residential (“TF-3”) and is a partially developed single-family residential subdivision; Meadow Creek, recorded February 15, 1995. Southern, adjacent B zoned properties are also developed as single-family residences. Properties adjacent to the west side of the site are the already noted single-family residences zoned LC with their east portions zoned SF-5, and one zoned GC. As already noted, there is a drainage canal separating these single-family residences from the subject site. An auto repair garage abuts the northwest side of the site. Properties abutting and adjacent to the east side of the site are zoned B and LI. The abutting B zoned properties are developed as three (3) single-family residences and an undeveloped residential sized tract. The adjacent LI zoned properties (across Fairview) are developed as several office - warehouses and a few nonconforming single-family residences.
2. The suitability of the subject property for the uses to which it has been restricted: The size of the B zoned site, 5.46-aces, is large enough to allow for a substantial single-family subdivision or apartment development. However the B zoned site has been vacant for at least the last 15 years, and that would seem to indicate it has less appeal for residential development.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The requested GC zoning with the proposed PO would allow development of the site for uses not out of character for the area’s sites with 29th Street frontage; local retail, some manufacturing, office-

warehouse and some single-family residential. However, the GC zoning with the proposed PO would allow development of the site for uses not out of character for the area's sites with 29th Street frontage; local retail, some manufacturing, office-warehouses and some single-family residential. The proposed PO addresses site design features and prohibits certain uses that are less compatible with the development of the area.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The *2030 Wichita Functional Land Use Guide of the Comprehensive Plan* designates this area as appropriate for "Urban Residential" development. The Urban Residential category includes all housing types found in the municipality. Although the requested zoning GC does permit by-right all types of residential development, it also permits commercial development, which is not included in the Urban Residential category. The requested GC zoning would permit uses found in the "Regional Commercial" category such as "...major destination areas containing concentrations of commercial, office and personal services that have predominately regional market areas and high volumes of retail traffic...are located in close proximity to major arterials or freeways...ranges of uses include major retail malls, major automobile dealerships, and big box retail..." There are not any concentrations of development in the area that are a regional draw or which draws high volumes of retail traffic. The site's location is off of a minor arterial midway between two other minor arterials. The existing GC zoned development in the area is more local commercial: full service restaurant and tavern, a bingo parlor, a small grocery and a self-storage warehouse. The area's existing LI zoned development is mostly office-warehouse, of a moderate scale.

The location of the site and the development around it makes it more of a match for the "Local Commercial" category, although its size, 5.46-acres, would probably make it the largest GC or LI zoned site in the area. The uses found in the Local Commercial category; "...concentrations of commercial, office and personal services that do not have significant regional market draw...ranges of uses include medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants, personal services...may also include mini warehouse storage and small scale light manufacturing." The existing uses in the area match the Local Commercial category. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The site has frontage on a minor arterial and the proposed PO addresses site design features and prohibits certain uses that are less compatible with the development of the area.

5. Impact of the proposed development on community facilities: All utilities are available. Access controls, street, drainage and other infrastructure requirements will be established at the time of platting. It is recommended that access not be allowed to Fairview, a residential street. Some of the uses allowed in the proposed GC zoning and PO will generate less traffic than an apartment complex on the 5.47-acre site, although anything will generate more traffic than the undeveloped site and commercial uses are capable of generating significant average daily traffic volumes.

BILL LONGNECKER, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

MITCHELL moved, **B. JOHNSON** seconded the motion, and it carried (11-0).

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6. **Case No.: CON2009-27** - QuikTrip West Inc., Attn: Jake Sutton and Rodney Loyd, (Agent/Applicant(s)/Owner) Request City Conditional Use request to permit ancillary parking

in the B District at 1131 and 1135 South Hydraulic Street on property described as:

Parcel 1: Lot 1 and that part of street beginning at the Southeast corner of Lot 1; thence North 55 feet; thence East 15.12 feet; thence South 39.88 feet; thence Southwesterly to beginning, and all of Reserve A, Block 1 QuikTrip 5th Addition to Wichita, Sedgwick County, Kansas.

Parcel 2: Lots 1, 3, 5 and 7 on Hydraulic Avenue in Amidon's Addition to Wichita, Sedgwick County, Kansas.

Parcel 3: The West 74 feet of the South 7 feet of Lot 20 and the West 74 feet of Lots 22 and 24 except beginning at the Southwest corner of Lot 24; thence east 74 feet; thence North 45 feet; thence West 24 feet; thence Southwesterly to a point 7.5 feet North of the Southwest corner of Lot 22; thence South along the East line of Greenwood to the point of beginning, on Fannie Avenue now Greenwood Avenue, in Amidon's Addition to the City of Wichita, Sedgwick County, Kansas, generally located north of Lincoln Street and west of Hydraulic Street.

BACKGROUND: The applicant requests a Conditional Use to allow ancillary parking on Lots 1, 3, 5 and 7, of the Amidon's Addition. The subject site's 0.30-acres is zoned B Multi-family Residential ("B"), with lots 5 and 7 being undeveloped and lots 1 and 3 developed with a single-family residence, located 200 feet north of the intersection of South Hydraulic Avenue and East Lincoln Street. The applicant needs the ancillary parking for additional parking for the QuickTrip convenience store, adjacent to the south of the subject site, along Lincoln Street. Ancillary parking areas are subject to the Supplementary Use Regulations contained in Article III, Section D.6.p of the Unified Zoning Code ("UZC").

The subject site is located in a transitional area between commercial uses to the south, along Lincoln Street and residential uses to the north along Hydraulic Avenue. North of the subject site, the land is zoned B, and is developed with single-family residences. South of the subject site the property is zoned LC Limited Commercial ("LC") and is developed with the convenience store, which the subject site will be serving. East of the subject site, across Hydraulic Avenue, is property zoned B and is developed with single-family residences. The property west of the subject site is zoned LC and B and is developed with a single-family residence on the B zoned property and vacant, landscaped land on the LC zoned property.

The attached site plan illustrates a proposed 7-stall parking lot for the subject site, with a 30-foot drive aisle on Lots 5 and 7 of the Amidon's Addition, and Lots 1 and 3 being devoted solely for open space and landscaping. The site plan shows trees along the north and west property line of Lots 1 and 3 and access from Hydraulic or from the existing QuikTrip site. Landscaping will be per the zoning code. The site plan does not indicate if there will be light standards in the proposed parking area or if the lighting will be light packs attached to the building.

CASE HISTORY: The property was platted as part of the Amidon's Addition on January 24, 1887.

ADJACENT ZONING AND LAND USE:

NORTH:	B	Residences
EAST:	B	Residences
SOUTH:	LC	Convenience Store
WEST:	LC & B	Convenience Store & Residences

PUBLIC SERVICES: The subject site has access from Hydraulic Avenue, a paved two-lane minor arterial, with 13,167 Average Daily Trips (ADT's) at its intersection with Lincoln Street. Lincoln Street is a minor arterial, located approximately 200 feet south of the subject site, with 22,140 ADT's at its intersection with Hydraulic Avenue. Municipal water and sewer services are available at this site.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide” of the Comprehensive Plan identifies the north part of the site as appropriate for “Urban Residential” while the south part of the site is identified as appropriate for “Local Commercial.” The Urban Residential category includes all densities of residential development found within the urban municipality. This category of use encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The range of housing types found includes: single detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhouses, apartments and multi-family units, condominiums, mobile home parks and special residential accommodations for the elderly (assisted living, congregate care and nursing homes). Elementary and middle school facilities, churches, playgrounds, parks and other similar residential-serving uses may also be found in this category. The Local Commercial category encompasses areas that contain concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw. The range of recommended uses includes: medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants and personal service facilities. On a limited presence basis, these areas may also include mini-storage warehousing and small scale, light manufacturing.”

RECOMMENDATION: Based on the information available prior to the public hearing, MAPD staff recommends the application be APPROVED, subject to the following conditions:

- A. The Conditional Use permits “parking, ancillary” associated with the retail convenience store; parking of commercial vehicles not associated with a convenience store is prohibited.
- B. The ancillary parking area shall be developed and operated in conformance with the requirements of Article III, Section D.6.p of the UZC, except as noted in the conditions of approval.
- C. Screening consistent with Unified Zoning Code standards shall be located on the north property line of Lot 1 and along the west property line of Lots 1 and 3 entirely on the subject property.
- D. Lighting standards in the ancillary parking lot shall be shielded downward and away from the surrounding property, and meet all lighting requirements of the UZC (Sec. IV-B.4), but with a maximum height of poles and fixtures of 14 feet.
- E. A revised site plan addressing the conditions of approval shall be submitted for review by the Planning Director or his designee prior to the issuance of a building permit but no later than 180 days after approval of the Conditional Use.
- F. The Conditional Use shall be developed in general conformance with a site plan revised to meet these conditions. Any substantial change in the revised site plan shall require an amendment to this Conditional Use.
- G. All landscaping as required by the Landscape Ordinance and the conditions of approval for the Conditional Use shall be installed within a year of final action by the governing body and maintained per a landscape plan approved by the Planning Director or his designee prior to the issuance of a building permit but no later than 180 days after approval of the Conditional Use. The landscape plan shall specify the plant materials and method of irrigation in conformance with the requirements of the Landscape Ordinance.
- H. As stipulated in Article III, Section D.6.p of the UZC, the parking lot shall be used for passenger vehicles only and in no case shall it be used for sales, repair work, or the storage, dismantling or servicing of any vehicles, equipment, materials or supplies.
- I. The parking lot shall be paved and properly striped.
- J. The applicants will maintain the property and keep it free of debris.

- K. Development of the use permitted by the Conditional Use shall commence within one year from the date of final approval or the Conditional Use shall be null and void.
- L. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the UZC, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. Zoning, uses and character of the neighborhood. The subject site is located in a transitional area between commercial uses to the south, along Lincoln Street and residential uses to the north along Hydraulic Avenue. North of the subject site, the land is zoned B, and is developed with single-family residences. South of the subject site the property is zoned LC Limited Commercial ("LC") and is developed with the convenience store, which the subject site will be serving. East of the subject site, across Hydraulic Avenue, is property zoned B and is developed with single-family residences. The property west of the subject site is zoned LC and B and is developed with a single-family residence on the B zoned property and vacant, landscaped land on the LC zoned property.
2. The suitability of the subject property for the uses to which it has been restricted. Approval of the request will allow only the additional use of "parking, ancillary." If approved, the existing base zoning will remain the same. The property could continue to be used as currently zoned.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The screening, lighting, and compatibility standards of the UZC, the landscape street yard, parking lot screening, and buffer requirements of the Landscape Ordinance, and the additional zoning restrictions of a Conditional Use should limit noise, lighting and other activity from adversely impacting surrounding residential uses.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The "2030 Wichita Functional Land Use Guide" of the Comprehensive Plan identifies the north part of the site as appropriate for "Urban Residential" while the south part of the site is identified as appropriate for "Local Commercial." The Urban Residential category includes all densities of residential development found within the urban municipality. "This category of use encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The range of housing types found includes: single detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhouses, apartments and multi-family units, condominiums, mobile home parks and special residential accommodations for the elderly (assisted living, congregate care and nursing homes). Elementary and middle school facilities, churches, playgrounds, parks and other similar residential-serving uses may also be found in this category. The Local Commercial category encompasses areas that contain concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw. The range of recommended uses includes: medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants and personal service facilities. On a limited presence basis, these areas may also include mini-storage warehousing and small scale, light manufacturing."
5. Impact of the proposed development on community facilities: The proposed use of this property would have a limited impact on community facilities for the area.

DERRICK SLOCUM, Planning Staff presented the Staff Report.

JAKE SUTTON, 4705 SOUTH 129th EAST AVENUE, TULSA, OK clarified that two houses are to be removed. He commented on item D under conditions, and the recommendation for 14-foot light poles. He said QuikTrip would like to install 20-foot light poles on 2-foot concrete bases for safety reasons. He said the lights will face away from the residential area and will be at least 50 feet from the neighbor to the north. He said the neighbors to the west are screened by trees. He said they do not want to have a dark lot blocked off by a fence behind a convenience store.

Responding to a question from **FOSTER, SUTTON** explained that the area will be landscaped heavily with Austrian pines and that the fence is required by code.

SLOCUM explained that 14-foot poles are the standard lighting requirement for Community Unit Plans (CUP's) but added that the Planning Commission could allow 22-foot poles.

MITCHELL said he remembered considerable discussion on standard height requirements to be applied uniformly, but couldn't remember the height that was decided upon.

MILLER said 14 feet was the number staff was using if the location was close to residences. He said the applicant tried to reach him prior to the meeting, probably to discuss this issue. He said staff has no problem with the requested 22 feet because of the trees on the west and the distance from the north property line.

B. JOHNSON mentioned measuring the foot candle to see what the lighting would be like past the property line and make sure it is not on the property line.

MILLER said the cut-off fixtures should pretty much contain any spillover given the location of the poles on the site.

MOTION: To approve subject to staff recommendation, and allow applicant's request for 22-foot light poles.

J. JOHNSON moved, **MITCHELL** seconded the motion, and it carried (11-0).

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7. **Case No.: CON2009-28** - Alamo Apartments, LLC (owner); Paul Adams (agent) Request City Conditional Use request to permit ancillary parking on TF-3 Two-Family Residential zoning at 120 South Estelle Street on property described as:

Lots 2 and 4, on Estelle Avenue in Oliver's Subdivision of Lots 1 and 2, Block 1, in Richland's Addition to Wichita, Sedgwick County, Kansas, generally located east of Estelle Street and south of Douglas Avenue.

BACKGROUND: The applicant is requesting a City Conditional Use for Parking Area, Ancillary, on property zoned TF-3 Two-Family Residential ("TF-3"). The parking area will be for residents and guests at the contiguous Alamo Apartments north of the alley fronting onto Douglas Avenue. As is typical along the Douglas uptown area, the buildings have a narrow setback from Douglas and Estelle. A few parallel parking spaces provide some on-street parking for apartment residents, but it is insufficient to accommodate the parking needs of the residents of the 24 apartment units. The proposed ancillary lot will alleviate some of this gap by providing 14 parking stalls.

The site plan shows the cars using the paved alley as the means of ingress/egress. It designates an eight-foot wide area between the parking lot and Estelle Avenue for landscaping. This is the minimum width required for ancillary parking lots, coupled with an Administrative Adjustment to allow parking within

the front setback. The site plan also shows the placement of trees and a screening fence to buffer the parking lot from the adjoining residence zoned TF-3 to the south.

The apartments generating the need for the parking spaces are located north of the alley on property zoned LC Limited Commercial (“LC”) and fronting Douglas Avenue. Douglas Avenue between Grove Street and Hillside Avenue contains a vibrant mix of residential apartment buildings, small-scale specialty retail (e.g. music store, used clothing and antiques, a bookstore), personal services (laundromat, styling salons), some specialty business services, office uses, and a convenience store, a grocery store, a hardware store and restaurants. The commercial building next door is vacant but was occupied by a Montessori school for many years. The property south of the alley and located directly to the east of the site is zoned GO General Office (“GO”) and is partially paved and was previously used as overflow parking and a play area for the Montessori school. The property located directly across Estelle Avenue to the west is zoned TF-3 and is a duplex. The rest of the property located to the south, east and west of the site is zoned TF-3 but occupied by single-family residences. The property is in the environs of the Stopher Apartments located approximately one and one-half block to the west.

CASE HISTORY: The property is platted as Lots 2 and 4, on Estelle Avenue, Oliver’s Subdivision of Lots 1 and 2, Block 1, in Richland’s Addition, recorded June 16, 1886.

ADJACENT ZONING AND LAND USE:

NORTH:	LC	Apartments, offices, retail, commercial
SOUTH:	TF-3	Single-family residential
EAST:	GO, TF-3	Parking area, single-family residential
WEST	TF-3	Duplex, single-family residential

PUBLIC SERVICES: The property has access to the paved 15-foot wide alley, then to Estelle Avenue or Volutsia Avenue, both local streets. Douglas Avenue one-fourth block to the north is a four-lane minor arterial street. In 2006, the traffic volume (Annual Average Daily Traffic “AADT”) was 13,000 on Douglas at the intersection with Grove Street, tapering to 12,000 west of Hillside and 11,000 east of Hillside. Normal public services are available to the site.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide,” 2005 amendments to the *Wichita-Sedgwick County Comprehensive Plan* identifies the site as “urban residential.” The proposed Conditional Use could be construed as being a residential-serving use since it is being developed to serve the contiguous apartment building, so long as the ancillary parking area incorporates screening, buffering and site development requirements that minimize its impact on nearby lower density residential uses. It follows the development pattern along Douglas where most of the buildings have zero-lot or shallow setbacks. Many uses have added a parking area contiguous to the alley to add needed parking. Approximately 40 percent of the property abutting the alleys is used in this manner.

RECOMMENDATION: Based on the information available prior to the public hearing, staff recommends the application be APPROVED subject to the following conditions:

- A. The Conditional Use permits “parking, ancillary” of passenger vehicles only and shall not be used for parking or storage of commercial vehicles; in no case shall it be used for sales, repair work, or the storage, dismantling or servicing of any vehicles, equipment, materials or supplies.
- B. The ancillary parking area shall be developed and operated in conformance with the requirements of Article III, Section D.6.p of the UZC, except as noted in the conditions of approval.
- C. The Conditional Use shall be developed in general conformance with the approved site plan.

- D. Screening consistent with Unified Zoning Code standards shall be located on the south property line.
- E. Lighting standards in the ancillary parking lot shall be shielded downward and away from the surrounding property, and meet all lighting requirements of the UZC (Sec. IV-B.4), but with a maximum height of poles and fixtures of 15 feet.
- F. Landscaping shall be as required by the Landscape Ordinance and shall be installed within a year of final action by the governing body and maintained per a landscape plan approved by the Planning Director or his designee prior to the issuance of a building permit but no later than 180 days after approval of the Conditional Use. The landscape plan shall specify the plant materials and method of irrigation in conformance with the requirements of the Landscape Ordinance.
- G. The parking lot shall be paved and properly striped.
- H. The applicants will maintain the property and keep it free of debris.
- I. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the UZC, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The apartments generating the need for the parking spaces are located north of the alley on property zoned LC Limited Commercial (“LC”) and fronting Douglas Avenue. Douglas Avenue between Grove Street and Hillside Avenue contains a vibrant mix of residential apartment buildings, small-scale specialty retail (e.g. music store, used clothing and antiques, a bookstore), personal services (laundromat, styling salons), some specialty business services, office uses, and a convenience store, a grocery store, a hardware store and restaurants. The commercial building next door is vacant but was occupied by a Montessori school for many years. The property south of the alley and located directly to the east of the site is zoned GO General Office (“GO”) and is partially paved used to be used as overflow parking and a play area for the Montessori school. The property located directly across Estelle Avenue to the west is zoned TF-3 and is a duplex. The rest of the property located to the south, east and west of the site is zoned TF-3 but occupied by single-family residences. The property is in the environs of the Stopher Apartments located approximately one and one-half block to the west.
2. The suitability of the subject property for the uses to which it has been restricted: The site could continue to be used as a residential lot, which would effectively keep the separation between apartment use and low density residential use at the alley line. The existing residence is in need of substantial repairs.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The detrimental effects will be mitigated by the buffering and screening and landscaping but it will add a parking area within the visual area of the nearest residential neighbors.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The “2030 Wichita Functional Land Use Guide,” 2005 amendments to the *Wichita-Sedgwick County Comprehensive Plan* identifies the site as “urban residential.” The proposed Conditional Use could be construed as being a residential-serving use since it is being developed to serve the contiguous apartment building, so long as the ancillary parking area incorporates screening, buffering and site development requirements that minimize its impact on nearby lower

density residential uses. It follows the development pattern along Douglas where most of the buildings have zero-lot or shallow setbacks. Many uses have added a parking area contiguous to the alley to add needed parking. Approximately 40 percent of the property abutting the alleys is used in this manner.

5. Impact of the proposed development on community facilities: The Conditional Use will not alter the impact on community facilities and may reduce on-street parking congestion in the neighborhood.

DONNA GOLTRY, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

MITCHELL moved, **B. JOHNSON** seconded the motion, and it carried (11-0).

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8. **Case No.: CON2009-30** - Carolyn Williams (owner), City of Wichita Water Utility (applicant), Professional Engineering Consultants c/o Rob Hartman (agent) Request: County Conditional Use for a Major Utility (surge tank) in RR Rural Residential zoning on property described as:

A PARCEL OF LAND 350 FEET BY 350 FEET IN THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 15, TOWNSHIP 25 SOUTH, RANGE 2 WEST, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SECTION 15, TOWNSHIP 25 SOUTH, RANGE 2 WEST, THENCE EASTERLY ALONG THE NORTH LINE OF SAID SECTION FOR A DISTANCE OF 350 FEET; THENCE SOUTHERLY AT APPROXIMATELY RIGHT ANGLES TO SAID NORTH LINE, FOR A DISTANCE OF 350 FEET; THENCE WESTERLY AT APPROXIMATELY RIGHT ANGLES, 350 FEET TO A POINT ON THE WEST LINE OF SAID SECTION 15, THENCE NORTHERLY ALONG THE SAID WEST LINE, 350 FEET TO POINT OF BEGINNING, IN THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 15, TOWNSHIP 25 SOUTH, RANGE 2 WEST.

TOGETHER WITH

A TRACT DESCRIBED AS COMMENCING AT THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF SECTION 15, TOWNSHIP 25 SOUTH, RANGE 2 WEST OF THE SIXTH PRINCIPAL MERIDIAN, SEDGWICK COUNTY, KANSAS; THENCE EASTERLY ALONG THE NORTH LINE OF SAID SECTION 15, A DISTANCE OF 350 FEET; SAID LINE BEING THE NORTH LINE OF RIGHT OF WAY TRACT 34 AS DESCRIBED IN BOOK 394, PAGE 544, SEDGWICK COUNTY REGISTER OF DEEDS OFFICE; THENCE SOUTHERLY AT APPROXIMATE RIGHT ANGLES TO SAID NORTH LINE, ALONG THE EAST LINE OF SAID TRACT 34, A DISTANCE OF 350 FEET TO THE POINT OF BEGINNING; THENCE ON AN ASSUMED BEARING OF S00°17'08"E, PARALLEL WITH THE WEST LINE OF SAID NORTHWEST QUARTER, A DISTANCE OF 160.00 FEET; THENCE S89°10'23"W, PARALLEL WITH THE NORTH LINE OF SAID NORTHWEST QUARTER, A DISTANCE OF 115.35 FEET; THENCE N22°04'20"W, 171.66 FEET TO A POINT ON THE SOUTH LINE OF SAID TRACT 34; THENCE N89°10'23"E ALONG SAID SOUTH LINE, 179.06 FEET TO THE POINT OF BEGINNING, Generally located south of 109th Street N. and east of 167th Street W.

BACKGROUND: The application area has an existing 56-foot tall, 95-foot diameter, 3-million gallon surge tank for the City of Wichita Water Utility. The existing tank was built in the 1950s, prior to Conditional Use requirements in the County. The City of Wichita Water Utility now wishes to replace the existing tank with a new 2.5-million gallon tank further south on the site, see the attached site plan provided by the applicant. The new tank will be between 75 and 80 feet in diameter, and will be up to 100 feet tall. The tank must have 80 feet of water elevation to maintain necessary pressure, requiring the

100-foot height. The site will be fenced with an 8-foot chain link fence, will have lighting directed into the site and away from surrounding properties, and will have a 32 square-foot sign. Significant vegetation exists south and west of the site. The requested facilities are associated with the City of Wichita's Aquifer Storage and Recovery (ASR) project. The applicant is concurrently platting the property. The site is one mile west of the City of Bentley and within the Bentley Zoning Area of Influence. The Bentley Planning Commission will hear this request on October 27, 2009.

All property surrounding the site is zoned RR Rural Residential ("RR") and is used for agriculture. All property southeast of the site is under the same ownership as the application area. The nearest residence is 1,600 feet southwest of the site and is screened from the tank with significant existing vegetation.

CASE HISTORY: The property was zoned RR in 1985 when the county adopted county-wide zoning.

ADJACENT ZONING AND LAND USE:

NORTH:	RR	Agriculture
SOUTH:	RR	Agriculture
EAST:	RR	Agriculture
WEST:	RR	Agriculture

PUBLIC SERVICES: 109th Street North and east of 167th Street West are unpaved section line roads with a 30-foot half width right-of-way (ROW) at the site. The proposed plat of the site will dedicate ROW, bringing the ROW half width at the site to 60 feet, tapering to 75 feet at the intersection. The streets are maintained by the township.

CONFORMANCE TO PLANS/POLICIES: The application area is located within Bentley's Zoning Area of Influence. According to the *Wichita-Sedgwick County Unified Zoning Code*, the Bentley Planning Commission is given the opportunity to review and make a recommendation prior to the case being forwarded to the Metropolitan Area Planning Commission (MAPC). After hearing the case, and if the Bentley Planning Commission recommends denial, the code specifies that the Board of County Commissioners may overturn a denial by Bentley's planning commission with a unanimous vote.

The County's 2030 functional land use guide designates this site as "Rural" and not within the Bentley 2030 Urban Growth Area. The Rural category encompasses land outside the 2030 urban growth areas for Wichita and small cities. This category is intended to accommodate agricultural uses, rural based uses that are no more offensive than those agricultural uses commonly found in the County, and predominantly larger lot residential uses. The utilities location guidelines of the Comprehensive Plan indicate utility facilities that produce significant noise, odor and other nuisance elements should be located away from residential areas.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to platting within 1-year, and the following conditions:

- A. The Conditional Use for a Utility, Major permits a 100-foot tall water surge tank, parking, waterlines, and controls.
- B. The site shall be developed and maintained in substantial conformance with the approved site plan, and in compliance with all applicable local, state and federal regulations and codes.
- C. Lighting on the site shall not exceed 25 feet in height, and shall be directed away from surrounding properties.
- D. Signage is limited to a maximum of 32 square feet and 10 feet in height. If the sign is lighted, lighting shall be designed to minimize light pollution and night time glare.
- E. If the Zoning Administrator finds there is a violation of any of the conditions of approval, the Zoning Administrator, in addition to enforcing other remedies set forth in Article VIII of the Unified Zoning Code may, with the concurrence of the Planning Director, declare the Conditional

Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: All property surrounding the site is zoned RR and is used for agriculture. All property southeast of the site is under the same ownership as the application area. The nearest residence is 1,600 feet southwest of the site and is screened from the tank with significant existing vegetation.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned RR Rural Residential, which allows agriculture and residences with a minimum lot size of between two and four and one-half acres, depending upon the on-site sewer solution. The site was developed with a utility before zoning existed in the County. The site has legal non-conforming use rights for a utility, but cannot be significantly improved without the requested Conditional Use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: A large water tank has existed on the site for over 50 years without any apparent negative effect on surrounding properties. Existing vegetation will partially screen the proposed tank from the nearest residence.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The County's 2030 functional land use guide designates this site as "Rural" and not within the Bentley 2030 Urban Growth Area. The Rural category encompasses land outside the 2030 urban growth areas for Wichita and small cities. This category is intended to accommodate agricultural uses, rural based uses that are no more offensive than those agricultural uses commonly found in the County, and predominantly larger lot residential uses. The utilities location guidelines of the Comprehensive Plan indicate utility facilities that produce significant noise, odor and other nuisance elements should be located away from residential areas.
5. Impact of the proposed development on community facilities: Approval will provide the means to increase stored water volume and quality that can be made available for beneficial use. Projects of this type enhance the quality and quantity of beneficial yield of the aquifer, creating a more sustainable water supply.

JESS MCNEELY, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

MITCHELL moved, B. JOHNSON seconded the motion, and it carried (11-0).

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9. **Case No.: CON2009-31** - City of Wichita Water Utility (owner/applicant), Professional Engineering Consultants c/o Rob Hartman (agent) request County Conditional Use for a Major Utility (well house) in RR Rural Residential zoning on property described as:

The South 485.00 feet of the East 410.00 feet of the Southwest Quarter of the Southeast Quarter, Section 5, Township 25 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas, generally located north of 117th Street N. and west of 183rd Street W.

BACKGROUND: The application area has an existing brick, one-story well house for the City of Wichita Water Utility. The existing well house was built prior to zoning or Conditional Use requirements in the County. The City of Wichita Water Utility now wishes to replace the existing well house a new,

one story, brick well house, see the attached site plan provided by the applicant. The new well house will be slightly larger, the site will be fenced with an 8-foot chain link fence, it could have lighting that would be directed into the site and away from surrounding properties, and it could have up to a 32 square-foot sign. The requested facilities are associated with the City of Wichita's Aquifer Storage and Recovery (ASR) project. The applicant is concurrently platting the property.

All property surrounding the site is zoned RR Rural Residential ("RR"). Property north and west of the site is also owned by the City of Wichita, is used for agriculture. Property east of the site is under another ownership and is also used for agriculture. Two 4.5-acre parcels immediately south of the site are developed with single-family residences and associated accessory structures.

CASE HISTORY: The property was zoned RR in 1985 when the county adopted county-wide zoning.

ADJACENT ZONING AND LAND USE:

NORTH:	RR	Agriculture
SOUTH:	RR	Single-family residential, agriculture
EAST:	RR	Agriculture
WEST:	RR	Agriculture

PUBLIC SERVICES: 117th Street North is an unpaved section line road with a 40-foot half width right-of-way (ROW) at the site. The proposed plat of the site will bring the ROW half width at the site up to 60 feet. 117th Street North is maintained by the township.

CONFORMANCE TO PLANS/POLICIES: The County's 2030 functional land use guide designates this site as "Rural" and not within the Bentley 2030 Urban Growth Area. The Rural category encompasses land outside the 2030 urban growth areas for Wichita and small cities. This category is intended to accommodate agricultural uses, rural based uses that are no more offensive than those agricultural uses commonly found in the County, and predominantly larger lot residential uses. The utilities location guidelines of the Comprehensive Plan indicate utility facilities that produce significant noise, odor and other nuisance elements should be located away from residential areas.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to platting within 1-year, and the following conditions:

- A. The Conditional Use for a Utility, Major permits a one-story well control house, air relief structure, waste holding tank, parking, fencing, and underground waterlines.
- B. The site shall be developed and maintained in substantial conformance with the approved site plan, and in compliance with all applicable local, state and federal regulations and codes.
- C. Lighting on the site shall not exceed 15 feet in height, and shall be directed away from surrounding properties.
- D. Signage is limited to a maximum of 32 square feet and 10 feet in height. If the sign is lighted, lighting shall be designed to minimize light pollution and night time glare.
- E. If the Zoning Administrator finds there is a violation of any of the conditions of approval, the Zoning Administrator, in addition to enforcing other remedies set forth in Article VIII of the Unified Zoning Code may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: All property surrounding the site is zoned RR. Property north and west of the site is also owned by the City of Wichita, is used for agriculture. Property east of the site is under another ownership and is also used for agriculture.

Two 4.5-acre parcels immediately south of the site are developed with single-family residences and associated accessory structures.

2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned RR Rural Residential, which allows agriculture and residences with a minimum lot size of between two and four and one-half acres, depending upon the on-site sewer solution. The site was developed with a utility before zoning existed in the County. The site has legal non-conforming use rights for a utility, but cannot be significantly improved without the requested Conditional Use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: A well house has existed on the site for over 24 years without any apparent negative effect on surrounding properties. The two residences south of the site were built after the well house existed.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The County's 2030 functional land use guide designates this site as "Rural" and not within the Bentley 2030 Urban Growth Area. The Rural category encompasses land outside the 2030 urban growth areas for Wichita and small cities. This category is intended to accommodate agricultural uses, rural based uses that are no more offensive than those agricultural uses commonly found in the County, and predominantly larger lot residential uses. The utilities location guidelines of the Comprehensive Plan indicate utility facilities that produce significant noise, odor and other nuisance elements should be located away from residential areas.
5. Impact of the proposed development on community facilities: Approval will provide the means to increase stored water volume and quality that can be made available for beneficial use. Projects of this type enhance the quality and quantity of beneficial yield of the aquifer, creating a more sustainable water supply.

JESS MCNEELY, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

MITCHELL moved, **B. JOHNSON** seconded the motion, and it carried (11-0).

10. **Case No.: CON2009-32** - Webb Road Development (Owner/Applicant), c/o Johnny Stevens MKEC Engineering Co., c/o Gene Rath (Agent) Request City Conditional Use for Wrecking and Salvage yard in GI General Industrial zoning on property described as:

Lot 1, Block 1, Wichita Stockyard Addition, an addition to Wichita, Sedgwick County, Kansas,

TOGETHER WITH,

A tract in the Northwest Quarter of Section 9, Township 27 South, Range 1 East of the 6th Principal Meridian, Sedgwick County, Kansas, described as: BEGINNING 546.7 feet east and 661.7 feet south of the Northwest Corner of Section 9; thence east along a line parallel to the north line of said Section 9, a distance of 446.3 feet; thence south along a line parallel to the west line of said Section 9, a distance of 30 feet; thence east along a line parallel to the north line of Section 9, a distance of 3 feet; thence south along a line parallel to the west line of said Section 9, a distance of 1,066.05 feet; thence along a line forming an angle of 26 degrees, 15 minutes to the left from the above course a distance of 5 feet, more or less, to the west line of the right of way of the Missouri Pacific Railway Company; thence in a southwesterly direction along the west line of

said right of way to the point of intersection of said west line of said right of way and the east line of the right of way of the Atchison, Topeka and Santa Fe Railway Company a distance of 933.15 feet; thence east along a line parallel to the north line of said Section 9, a distance of 20.35 feet; thence in a northwesterly direction with an angle to the right of seventy-five degrees, 27 minutes a distance of 87.95 feet; thence north with a deflection angle to the right of fourteen degrees, fifty-nine minutes a distance of 220.8 feet to the PLACE OF BEGINNING. The above collectively containing 14.7 acres more or less, generally located south of 21st Street North and east of Topeka Street.

BACKGROUND: The applicant is requesting a Conditional Use to permit wrecking and salvage on the GI General Industrial (“GI”) zoned 14.7-acre site located south of 21st Street, between Topeka and Mead Streets. The applicant proposes to reduce the salvaged material/metal by torch cutting and crushing, and then bale, store and ship the scrap material/metal. A mobile shear may be added later. Shipping off of the site will be done by truck and rail. The applicant does not propose to sell vehicle parts, scrap metal or appliance parts off of the site.

The Unified Zoning Code (UZC, Art II, Sec II-B.14.r) definition of a “wrecking/salvage yard” includes the proposed use: “...a lot, land, or structure used for the collecting, dismantling, storing, and/or salvaging of machinery, equipment, appliances, inoperable vehicles, vehicle parts, bulky waste, salvage materials, junk, or discarded materials; and/or for the sale of parts thereof. Typical uses include motor vehicle salvage yards and junkyards.” The UZC, Art III, Sec III-D.6.e, requires a Conditional Use for a wrecking/salvage yard in the GI zoning district, with the following conditions:

- (1) Is not abutting an arterial street, expressway, or freeway;
- (2) In the opinion of the Planning Director, will not adversely affect the character of the neighborhood; and
- (3) Is enclosed by a fence or wall not less than eight feet in height and having cracks and openings not in excess of five percent of the area of such fence.

The site plan shows an 8-foot screening fence (steel) around the entire site. The site plan shows an office located off of the north portion of the site, along 21st Street North. The office has a 3 bay door garage attached to it. The site itself is proposed to be located 150 feet south of 21st Street, thus it will not be abutting an arterial street, expressway, or freeway. The applicant proposes to install a rail spur to allow the crushed vehicles/scrap metal to be shipped off the site by train. There will be drop-offs at this site from either the public or other businesses. Open top gondola trailers and open top tractor trailers will be on the site to hold scrap for shipping. Existing light will be used and security cameras will be put around the site. The site will be open Monday - Friday, 7:30 A.M. – 5:00 P.M. and have six to eight employees on the site.

Currently the southern, unplatted portion of the site is vacant. The platted, northern portion of the site is partially filled with wrecked, inoperable automobiles/motor vehicles, some trailers and miscellaneous junk stored on the dirt, gravel and weedy storage area. There is no solid screening around this northern portion of the site or the vacant southern portion of the site. Staff could not find a previous Conditional Use for a wrecking and salvage yard on the site, however aerials of the site (from 1997 to 2008) show both the northern and southern portions of the site to have been used as a wrecking and salvage yard.

The northern and southern portions of the site are separated by 20th Street North, a local, dirt and gravel public road, with 30-50 feet of right-of-way (ROW). 20th Street crosses railroad tracks, which run along the west side of the southern portion of the site, and continues west crossing Topeka to its intersection with Broadway Avenue. Broadway is a paved, curbed, four-lane minor arterial. Topeka is a paved, two-lane local street. 20th Street ends at the grain elevators abutting the eastern side of the southern portion of the site.

The area around the site is zoned GI. Development along 21st Street from Broadway Avenue to I-135, consists of: auto salvage yards, metal recycling yards, junk yards, wholesale used tires, office –

warehouse, used car sales, auto repair, a day reporting center (CON2001-56, the most recent development in the area), old self storage, vacant land and empty buildings. Staff found no case history on the neighboring existing auto salvage yards and junk yards in the area; these facilities do not appear to be in compliance with the UZC. The 1997, 2000, 2003 and 2006 aerials show junk yards and auto salvage yards of varying sizes in the area. There are active railroad tracks throughout the area, including one that separates Broadway from this area. The Nomar International Market (PUD-31) is located on the west side of Broadway.

The site is located within the *21st Street North Corridor Revitalization Plan* within its “Central Sub-Area.” The Plan’s 20 (+)-year land use plan shows the site to be located in the General Industrial category. The General Industrial category is for heavy industrial uses that are rail dependent; the proposed use fits into this category.

CASE HISTORY: The northern portion of the site was recorded as Lot 1, Block 1, the Wichita Stockyard Addition, on December 26, 2001. The southern portion of the site is not platted.

ADJACENT ZONING AND LAND USE:

NORTH:	GI	Manufacturing, office-warehouse, wrecking and salvage yards/recycling
SOUTH:	GI	Railroad tracks, grain elevators
EAST:	GI	Railroad track spur, grain elevators, drainage canal, car sales, vacant land
WEST:	GI	Railroad tracks, grain elevators, vacant land, self storage warehouse, office-warehouse-distribution

PUBLIC SERVICES: The subject property has direct access to 21st and 20th Streets and a paved alley. 21st Street is a paved four-lane principle arterial, with 60 feet of ROW. 20th Street is a dirt and gravel local street with 30-50 feet of ROW. The 2030 Transportation Plan projects 21st Street to become a five-lane arterial, with new railroad and street grade separation. The Plan shows no change to 20th Street. Traffic counts along the Broadway - 21st intersection show 13,621 – 16,778 trips per day. All utilities are available to the subject site.

CONFORMANCE TO PLANS/POLICIES: The *2030 Wichita Functional Land Use Guide* of the Comprehensive Plan classifies the general location as appropriate for “Processing Industry” development; wrecking/salvage yards are an appropriate use for this classification. There are numerous junk yards and auto salvage yards in this area that are not in compliance with the current UZC, with some being in the area, as shown on aerials, since at least 1997.

The Industrial Locational Guidelines of the Comprehensive Plan recommend that industrial uses should be located in close proximity to support services and provide good access to major arterials, truck routes, belt highways, utility trunk lines, along railroads, near airports and as extensions of existing industrial uses; the site has access to railroad and an arterial in an industrial area with similar uses. Industrial uses should be located away from existing or planned residential areas, and sited so as not to generate travel through less intensive land uses. The proposed site is located away from existing or planned residential areas and should not generate traffic through residential areas.

The site is located within the *21st Street North Corridor Revitalization Plan*. The Plan’s 20(+)-year land use plan shows the site to be located in the General Industrial category. The General Industrial category is for heavy industrial uses that are rail dependent; the proposed use fits into this category.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

1. The Conditional Use shall permit the torch cutting, crushing, shearing, baling, shredding, storage and shipping of motor vehicles, appliances and other industrial scrap materials.

2. The site will be open Monday - Friday, 7:30 A.M. – 5:00 P.M.
3. The site shall be developed and operated in compliance with all of the conditions of UZC, Art III, Sec. III-D.6.e, including the use of approved fencing or wall materials, and the approved site plan.
4. Employee parking spaces shall be provided per the UZC on an area paved with asphalt or concrete.
5. Stored materials, containers or bales shall be stored on a surface approved by the Office of Central Inspection.
6. A revised site plan addressing the conditions of approval shall be approved by the Planning Director prior to the beginning of the operation.
7. No scrap vehicles or scrap metal/appliances waiting to be processed shall be visible from ground-level view from any public right-of-way or abutting properties.
8. Storage of all of scrap materials (vehicles, metals, appliances, etc., including bales of the just mentioned) waiting to be processed and the containers they are stored in shall organized and be installed in an orderly manner, including an exposed perimeter, as specified by Environmental Services to prevent rodent harborage and breeding.
9. The applicant shall maintain at all times an active program for the eradication and control of rodents.
10. Weeds shall be controlled within the subject property and adjacent to and along the outside perimeter of the screening fence.
11. Any locking devices on entrance gates shall meet Fire Department requirements. Access to and within the site shall be provided by fire lanes per the direction and approval of the Fire Department.
12. Access to the subject property shall be provided for on-going inspections of the site for groundwater and soil contaminants by Environmental Services and other applicable governmental agencies. If the inspections determine it to be necessary, the applicant shall be required to install monitoring wells and/or perform soil testing on the property to monitor the quality of groundwater and/or soil, and shall pay the cost of an annual groundwater and/or soil test for contaminants as designated by the Environmental Services.
13. Notification shall be given to Environmental Services of any on-site storage of fuels, oils, chemicals, or hazardous wastes or materials. A disposal plan for fuels, oils, chemicals, or hazardous wastes or materials shall be placed on file with Environmental Services. All manifests for the disposal of fuels, oils, chemicals, or hazardous wastes or materials must be kept on file at the site and available for review by the Environmental Services.
14. The applicant shall implement a drainage plan approved the City Engineer prior to the commencement of operations that minimizes non-point source contamination of surface and ground water.
15. The applicant shall obtain and maintain all applicable local, state, and federal permits necessary for the operation of the storage of scrap metal waiting to be processed and storage of the scrap metal bales.

16. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

The staff's recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The area around the site is zoned GI. Development along 21st Street from Broadway Avenue to I-135, consist of auto salvage yards, metal recycling yards, junk yards, whole used tires, office – warehouse, used car sales, auto repair, a day reporting center (CON2001-56), old self storage, vacant land and empty buildings. There are also grain elevators in the area that are active. The 1997, 2000, 2003 and 2006 aerials show junk yards and auto salvage yards of varying sizes in the area. There are active railroad tracks throughout the area, including one that separates Broadway Avenue from this area.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned GI. A wrecking and salvage yard may be permitted with a Conditional Use in the GI zoning district, with the minimum conditions as listed in the UZC, Art III, Sec III-D.6.e. The site, as proposed, appears to conform to these minimum conditions: it does not abut an arterial street, expressway, or freeway (it is setback 150 feet from 21st Street North, an arterial street); the area has other wrecking and salvage yards; and it will have a minimum of an 8-foot tall solid, metal fence around it.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental effects on nearby property should be minimized by the recommended conditions of approval, which include screening. There are other wrecking or salvage yards in the area, so the proposed use is not introducing a new use to the area, which includes metal recycling yards, junk yards, wholesale used tires, office – warehouse, used car sales, auto repair, a day reporting center (CON2001-56, the most recent development in the area), old self storage, vacant land and empty buildings.
4. Conformance of the requested change to adopted or recognized Plans/Policies: The *2030 Wichita Functional Land Use Guide* of the Comprehensive Plan classifies the general location as appropriate for “Processing Industry” development; a wrecking/salvage yard is an appropriate use for this classification. There are numerous junk yards and auto salvage yards in this area that are not in compliance with the current UZC, with some being in the area since at least 1997. The Industrial Locational Guidelines of the Comprehensive Plan recommend that industrial uses should be located in close proximity to support services and provided good access to major arterials, truck routes, belt highways, utility trunk lines, along railroads, near airports and as extensions of existing industrial uses; the site has access to railroad and an arterial in an industrial area with similar uses. Industrial uses should be located away from existing or planned residential areas, and sited so as not to generate travel through less intensive land uses. The proposed site is located away from existing or planned residential areas and should not generate traffic through residential areas. The *21st Street North Corridor Revitalization Plan* 20 Year Land Use Plan map depicts this location as appropriate for General Industrial uses that include heavy industry that is rail dependent.
5. Impact of the proposed development on community facilities: All utilities are available to the site. The use of this property should have limited impact on community facilities, with the exception of the impact on 21st and 20th Streets North. 21st is a paved, curbed major arterial and 20th is a dirt and gravel local street with 30-50 of ROW. The site is also located within the *21st Street North Corridor Revitalization Plan*'s “Central Sub-Area.” This area has extensive existing ground water contamination, which requires monitoring.

BILL LONGNECKER Planning Staff, remarked that rather than make a full presentation, he would be glad to answer any specific questions from Commissioner Hillman. He also noted that the applicant had requested that condition #2 be revised to allow the wrecking and salvage yard to operate on Saturday.

HILLMAN referred to the aerial of the site, specifically the curved portion on the north side of the site and the creek that ran through it.

LONGNECKER stated that the area he was referring to was a platted reserve, part of the Wichita Stockyards Addition and that the drainage was running in it and out of it, but that the reserve was not in the application area.

HILLMAN asked who owns the creek.

LONGNECKER said he would have to look at the plat to determine who owned the reserve, where this portion of the creek was located. Beyond the reserve he was not sure who had ownership of the creek.

HILLMAN asked if the City owned the creek.

LONGNECKER commented that he would have to review a quarter section map to see what the status of the creek was in regards to if it was located in reserves, easements, or had been condemned as right-of-way.

HILLMAN referred to several slides he had taken of the creek within the reserve. He said there is a reasonable slope along the creek. He said when this operation takes place, he looks for the developers to do a good job of controlling the slope and not adding to run off from the site into the creek. He said this was one of the worst contaminated areas within the City.

MARNELL asked about condition #2, and why it was included, since the site was located in the heaviest industrial zoning in the City.

LONGNECKER said that as part of the dialog with the applicant about the use, staff asks the days and hours of operation, which the applicant gave and was included in the conditions.

MARNELL said the hours were included as a requirement and he was curious as to why staff thought that was necessary.

LONGNECKER said hours of operation have been included on other wrecking and salvage yard applications as a result of talking with other applicants about their Conditional Uses.

B. JOHNSON asked how staff felt about the request for Saturday operations.

LONGNECKER said staff had no problem with Saturdays, noting that the proposed use was replacing a nonconforming wrecking and salvage yard and that the impact on the area would be similar as the previous use. He also commented about other scrap yards and wrecking and salvage yards along 21st between Broadway and I-35.

DOWNING referred to the map of the site and asked where the rail spur was going to be installed.

LONGNECKER said he would let the applicant and agent respond to that.

FOSTER referred to the site plan and asked if staff would have any issues with location of the screening fence

LONGNECKER responded no.

GENE RATH, MKEC ENGINEERING, AGENT FOR THE APPLICANT referred to the aerial and said the north portion of the site is platted as the Wichita Stockyards Addition, and was recorded in 2001. He was not sure of the ownership of the reserve, as he could not say with 100 percent certainty, but he did not believe it was owned by the City. He said the reserve language probably allows for drainage, maintenance and those types of things. He said the rail spur will be located at the south end of the site with a short spur right into the site. He said there will be a mechanism to crush cars and other metals so they can be loaded directly onto rail cars on the site. He said when the application was submitted; staff asked a number of questions and days and hours of operation was one of them. He said the applicant provided staff the intended days and hours of operation which were Monday through Friday; however, they would like to operate on Saturday. He said he does not believe they intend to operate 24-hours a day or into the night, even though the site is located in an industrial area. He said in reference to the screening, he believes the general policy and guideline is that these types of operations not be located within 150 feet of a major arterial. He said they pulled the required screening a little farther south to say 175 or 200 feet.

J. JOHNSON asked if the agent had a comment about the runoff into the creek.

RATH said he did not have a comment on the runoff into the creek and added that they are not aware of any particular problems. He said one of the requirements of the Conditional Use was to have a drainage plan. He said there was a drainage plan for the area currently on file with the City. He commented that the south side will be screened off from the view to the north.

HILLMAN noted employee parking being paved with asphalt or concrete. He also mentioned that it appears that storage of materials will be on the ground and asked if that was correct.

RATH said they did not intend to provide asphalt to store the vehicles. He said they will be stored on the ground and not on pavement.

LONGNECKER explained that City code regards a gravel surface for a wrecking/salvage yard's storage area.

HILLMAN said this brown field area has trouble even growing weeds. He said he would still like to have the ground prepared and bermed on the north side. He said he was more than willing to work with the property owner to talk about controls and fixing up that area from the current pollution.

MILLER STEVENS asked if the agent/applicant were aware of any current violations and contaminations in any of the area.

RATH said they are not aware of violations or current contamination related to these properties. He said the entire area is subject to contaminated ground water. He said the owner may be able to speak to that more than he can. He said the entire area is not a pristine, clean ground water area; however, he is not aware of any problems attributed to this property or code violations attributed to this property.

JOHNNY STEVENS, APPLICANT AND PROPERTY OWNER said this area has contaminated ground water at about 15 feet, but it has mostly been contaminated from things further north where the water has migrated down through the area. He said there has been extensive testing in this area by the Kansas Department of Health and Environment (KDHE) and that there was no surface contamination on the ground. He said there were no "hot spots" where KDHE could pinpoint a source from his property. He said he wouldn't want to put a berm where Mr. Hillman had mentioned because it would be extremely expensive and they might as well not do the deal. He said they were required to put in a screening fence anyway.

HILLMAN said the intent of the berm was to keep runoff from the wrecked vehicles from running into the creek, and asked if their drainage plan's design would address that and asked when it was approved.

STEVENS said they haven't even done a drainage study yet so they don't know if all of this area drains into the ditch. He said that the ditch was part of his property until they platted the area and then the City requested a portion be dedicated for a reserve which the City has maintained since it was platted. He said he couldn't answer Mr. Hillman's question and didn't know how big a berm he was talking about, but he said if that is the way the water flows naturally, it will go into the creek somehow.

MOTION: To approve subject to staff recommendation, and change hours of operation to include Saturdays.

J. JOHNSON moved, **HENTZEN** seconded the motion.

MARNELL said he would like to make a substitute motion and said this goes in line with what he sees as Staff doing unnecessary regulation of business and government in general doing unnecessary regulation of business. He commented "you can laugh as much as you want Dale." He said he does not see it as staff's place to tell a business what hours to operate. He said if the hours had a purpose, such as if the site was adjacent to a residential area, he could understand the condition. But he said to put it in that (industrial) area and then say but you can only operate on these days from these times; he said he feels it is up to the applicant to use his property any way he wants.

SUBSTITUTE MOTION: To approve subject to staff recommendation, with the elimination of Item #2.

MARNELL moved, **MITCHELL** seconded the motion.

DOWNING said he had general questions. He voiced concern about the approved 21st Plan that the City was spending a good deal of money on and the Nomar open air market being 4-5 blocks west of this industrial area. He asked if the Commission was compounding the problem by adding an additional industrial item at this location. He said salvage yards and improvement of property and streets doesn't go very well together.

DIRECTOR SCHLEGEL commented that everyone involved in developing the 21st Street Revitalization Plan, including Johnny Stevens, would like to see some other uses of these properties in this part of 21st Street between Broadway and I-35; however, he said the land use is what it is and has been long established in the area. He said he does not think this application improves the situation, but it also doesn't make it any worse than it already is. He said transitioning into a higher, better use of this property is not going to happen any time soon given the use of the property today. He said that is why staff was able to recommend approval.

HILLMAN asked about guidelines on how high materials can be stacked.

LONGNECKER said condition #7 addresses the height issue.

HILLMAN clarified then materials could be stacked no higher than the fence.

LONGNECKER said yes, and added that the 21st Street Corridor Revitalization Plan was one of the documents consulted when the report was written and it showed this area as general industrial for the next 20-plus years.

HILLMAN said he appreciated the information and mentioned that he has been talking with the Environmental Services Department and the people who actually do measurements in this area and that they expressed concerns. He said now that he understands that the City may have taken over this area for

maintenance, he will be getting with them to see that this gets taken care of. He added that he would also like to visit with Mr. Johnny Stephens later.

LONGNECKER said the applicant and agent have been visiting with Environmental Services also.

MOTION: The Substitute motion carried (8-3).

DOWNING, FOSTER, and JOHNSON – No.

MILLER commented that as he had indicated the last time Mr. Marnell had specifically called him out on a staff report, that it was important for him to clarify the position regarding the hours of operation. He said staff does not care what the hours of operation are for this use, but that the applicant had volunteered them and staff had put them in the report. He said the Planning Commission had asked staff what were the hours and days of operation were for previous cases. He said staff provided them and the Commission can take them out; it doesn't make any difference to staff in regards to this case. He said he just wanted to clarify that staff was trying to be complete with the proposal and the Commission can do what they think is appropriate.

B. JOHNSON said that was the reason he did not vote to approve the application since the agent even made the comment from the podium that was what they requested.

FOSTER said he was concerned about the revitalization area to the west which is designed to be a pedestrian area and used actively during the weekends. He said the potential for conflict does concern him.

MARNELL said his comments in general had to do with over regulation and regulating where it is not necessary. He said the applicant had said that this is what they were generally planning, but not agreeing to restricted operation hours and days. In his opinion he felt that a restriction of days and hours of operation were unnecessary. He said his comment about Dale had to do with his "there he goes again attitude" and he was pretty good at reading people.

CHAIRMAN VAN FLEET commented in his personal view it was unfortunate to be ending the discussion in such a manner on a day when he believes staff has done really outstanding work, particularly on the prior item working their way through a confusing proposal that involved eight separate exceptions to the rules and presenting a credible plan which accommodated in some fashion the proposal before the Commission. He said he believes staff customarily does outstanding work and he was sure Mr. Marnell's comments were not personalized in any fashion.

MARNELL said absolutely not and that he agreed with the Chairman.

B. JOHNSON said he felt like if the Commission had approved what the applicant requested on CON2009-20, they would have opened up a can of worms for that homeowner and that there was no way the County would have ever approved that application.

The Metropolitan Area Planning Department informally adjourned at 3:07 p.m.

State of Kansas)
Sedgwick County) ^{ss}

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2009.

John L. Schlegel, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)